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LETTERS AND OTHER WRITINGS

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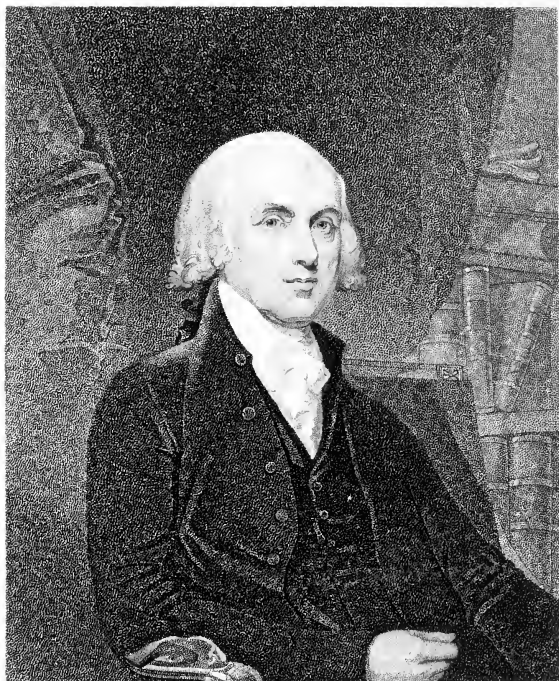
JAMES MADISON.

VOL. I.









*James Madison*



1780



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LETTERS  
AND OTHER WRITINGS  
OF  
JAMES MADISON

FOURTH PRESIDENT OF THE UNITED STATES.

IN FOUR VOLUMES.

PUBLISHED BY ORDER OF CONGRESS.

VOL. I.

1769-1793.

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PHILADELPHIA:

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## A D V E R T I S E M E N T .

ON the 3rd of March 1837, Congress appropriated \$30,000 for the purchase of the MSS. of MR. MADISON referred to in a letter from Mrs. Madison to the President of the United States, dated 15 November, 1836.\*

On the 14th of October 1837, Congress passed an Act granting to Mrs. Madison the right to publish in foreign countries, for her own benefit, her husband's MS. Debates of the Convention of 1787.†

On the 9th of July 1838, Congress passed an Act authorizing the Library Committee to cause the Madison Papers to be printed and published, and appropriating \$5,000 for the purpose.‡

Those Papers were accordingly published in three vols. 8vo., Washington 1840, printed by Langtree and O'Sullivan. They contain MR. MADISON's Reports of Debates during the Congress of the Confederation, [1782, 1783, and 1787,] and in the Federal Convention of 1787: Also letters to General Washington, Mr. Jefferson, Mr. Randolph, Mr. Pendleton, and Mr. Joseph Jones, and a few other letters, written during the period covered by those Reports. [Vol. I. pp. 43 — 186, 469 — 580. Vol. II. pp. 615 — 682.]

On the 31st of May 1848, Congress passed an Act appropri-

\* President's Message, December 6, 1836. *Madison Papers*, I. xvi, xvii.

† Statutes at Large, v. 205.

‡ Stat. L. v. 309.

ating \$25,000 to purchasing from Mrs. Madison all the unpublished MSS. of her husband, etc.; James Buchanan, John Y. Mason, and Richard Smith, to be trustees to hold, etc., \$20,000 for her.\*

On the 18th of August 1856, Congress appropriated \$6,000 to printing and publishing 1,000 copies of the Papers of MR. MADISON, then in the State Department, under the direction of the Joint Committee on the Library of Congress.†

The publication now made under the last mentioned Act, is in four vols. 8vo. and contains letters of MR. MADISON, from 1769 to 1836, being a period of more than sixty seven years. A few only of these letters are contained in the three volumes published in 1840.

To the papers referred to in the Act of 18 August 1856, the Library Committee have, in the present publication, made some additions. Among them are MR. MADISON's celebrated "Examination of the British doctrine, &c., &c.," written in 1806; his pamphlet entitled "Political Observations," published in 1795; some Essays, chiefly political, published in 1791 - '92; the Virginia proceedings of 1798, &c., which became a frequent subject of exposition with him in his later years. The Committee have also been enabled, through the courtesy of Mr. James C. McGuire of Washington City, to add from originals in his possession, MR. MADISON's statements in relation to Secretaries Smith and Armstrong; his apologue of "Jonathan and Mary Bull;" his memorandum of Bollman's interview with President Jefferson, concerning Burr's conspiracy; his letter on Napoleon's return from Elba; his note for the Princess, now Queen, Victoria; and his "Advice to my Country."

\* Stat. L. ix. 235.

† Stat. L. xi. 117.



The Chronological order of arrangement has been preferred, as being, on the whole, the most convenient. Any advantages of other plans are supposed to have been secured by the insertion of an analytical table of Contents and an Index of letters for each volume, with a copious General Index to the whole work.



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MEMORANDUM  
OF  
LEADING DATES, ETC.,  
IN THE  
LIFE OF JAMES MADISON.

---

1751. March 16, N. S. [1750, March 5, O. S.] Born in King George county, Virginia.
- . His early education, at the school of Donald Robertson, in King and Queen county; and afterward at home, under the private tuition of the Rev. Thomas Martin.
1769. Becomes a student of the College of New Jersey, at Princeton.
1771. Takes the degree of Bachelor of Arts.
1775. Chairman of the Committee of Public Safety for the county of Orange.
1776. April. Chosen a member of the new Virginia Convention at Williamsburg.
1777. November. Elected by the Legislature, a member of the Council of State.
1780. March 4, to the first Monday in November 1783, a delegate from Virginia to the Congress of the Confederation.
1780. October 17. His report from a Committee, consisting of himself, Mr. Sullivan, and Mr. Duane, to prepare instructions to Dr. Franklin and Mr. Jay in support of the claims of the United States to Western territory, and the free navigation of Mississippi River.
1783. April 26. From a Committee, consisting of himself, Mr. Ellsworth, and Mr. Hamilton, he prepares an Address to the States, urging the grant of power to Congress to lay certain duties for the payment of the public debt; the levying by the States of a revenue for paying the interest of the debt; and that the States should make liberal cessions to the Union, of their territorial claims.

1784. Elected a member of the Legislature of Virginia. Prepares Remonstrance and Memorial in favor of Religious Liberty.
1785. As Chairman of the Committee of Courts of Justice, reports a plan for establishing Courts of Assize. His labors in the general revisal of the Statute laws. Advocates successfully the enactment of a law by Virginia, to repress and punish enterprises by her citizens against nations with which the United States are at peace. [Filibustering.]
- His proposition for the execution of the Treaty of peace concerning British debts.
- Suggests a proposition for the appointment of Commissioners to consider of the state of trade in the Confederacy.
1786. Appointed, with six others, as Commissioners from Virginia to a Convention at Annapolis.
- Drafts the report of the Commissioners to the Legislatures by which they had been appointed, recommending a second Convention of delegates to a Convention to be held at Philadelphia on the second Monday of May, 1787, for a general revisal of the Constitution of the Federal Government.
- His effort for the disposal of the Public Lands, leading to a modification of the terms of cession, and to the ordinance for the Government of the North Western territory, which was afterward [13th of July, 1787] adopted by Congress.
1787. One of a Committee of five members for revising the style and arranging the articles of the Constitution which had been agreed to by the Convention at Philadelphia, and for preparing an address to the People of the United States.
- The leading advocate of the new Constitution.
- In conjunction with Alexander Hamilton and John Jay, writes "The Federalist."\*

\* Of the eighty-five Numbers of the "Federalist," Nos. 1, 6, 7, 8, 9, 11, 12, 13, 15, 16, 17, 21 to 36, 59, 60, 61, 65 to 85, were written by *Hamilton*; Nos. 10, 14, 37 to 58, by *Madison*; Nos. 2, 3, 4, 5, 64, by *Jay*; and Nos. 18, 19, 20, by *Hamilton* and *Madison*, jointly. In a copy\* of the *Federalist* lent by Mr. Madison to Mr. Jacob Gideon, of Washington city, the publisher of the edition of 1818, is the following MS. note, written by Mr. Madison, on the leaf commencing with No. 18:

"The subject of this and the two following numbers happened to be taken up  
" by both Mr. H. and Mr. M. What had been prepared by Mr. H., who had en-

\* Now in the Washington Library.

1789—1797. A member of the 1st, 2nd, 3rd, and 4th Congresses under the new Constitution.

1793. Writes "Helvidius," in answer to "Pacificus," (Alexander Hamilton,) on President Washington's Proclamation of Neutrality, April 22, 1793.

1794. September 15. Marries Mrs. Dolly P. Todd.

1798. December 21. Prepares Resolutions of the Legislature of Virginia against the Alien and Sedition Laws.

1799. Elected to the House of Delegates of Virginia from Orange County.

1799—1800. Prepares other Resolutions on the same subject, and a report in reply to answers received from other States.

1801—1809. Secretary of State during President Jefferson's Administration.

His Reports, diplomatic letters, &c., &c.

1806. His Examination of the British doctrine relating to Neutral Trade.

1809—1817. President of the United States.

His messages, annual and special, &c., &c.

1826. Rector of the University of Virginia.

1829. A delegate from the district of Spottsylvania, Louisa, Orange, and Madison, to the Convention of Virginia for revising the Constitution of the Commonwealth.

1833. President of the American Colonization Society.

1835. President of the Washington National Monument Society.

1836. June 28. Dies at his residence, Montpelier, Orange county, Virginia.

"tered more briefly into the subject, was left with Mr. M., on its appearing that  
"the latter was engaged in it, with larger materials, and with a view to a more  
"precise delineation; and from the pen of the latter, the several papers went to  
"the Press."





# WORKS OF MADISON.

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## LETTERS.

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TO THE REVEREND THOMAS MARTIN.

NASSAU HALL, August 16, 1769.

REV. SIR,—I am not a little affected at hearing of your misfortune, but cannot but hope the cure may be so far accomplished as to render your journey not inconvenient. Your kind advice and friendly cautions are a favor that shall be always gratefully remembered; and I must beg leave to assure you that my happiness, which you and your brother so ardently wish for, will be greatly augmented by both your enjoyments of the like blessing.

I have been as particular to my father as I thought necessary for this time, as I send him an account of the institution, &c., &c., and of the college, wrote by Mr. Blair, the gentleman formerly elected President of this place. You will likewise find two pamphlets entitled “*Britannia’s Intercession for John Wilkes,*” &c., which, if you have not seen it, perhaps may divert you.

I am perfectly pleased with my present situation; and the prospect before me of three years’ confinement, however terrible it may sound, has nothing in it, but what will be greatly alleviated by the advantages I hope to derive from it.

The near approach of examination occasions a surprising application to study on all sides, and I think it very fortunate

that I entered college immediately after my arrival. Though I believe there will not be the least danger of my getting an Irish hint, as they call it, yet it will make my studies somewhat easier. I have by that means read over more than half Horace and made myself pretty well acquainted with prosody, both which will be almost neglected the two succeeding years.

The very large packet of letters for Carolina I am afraid will be incommodious to your brother on so long a journey, to whom I desire my compliments may be presented; and conclude with my earnest request for a continuance of both your friendships, and sincere wishes for your recovery, and an agreeable journey to your whole company.

I am, sir, your obliged friend and obedient servant.

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TO JAMES MADISON.

NASSAU HALL, September 30, 1769.

HONORED SIR,—I received your letter by Mr. Rossekranz, and wrote an answer; but as it is probable this will arrive sooner which I now write by Dr. Witherspoon, I shall repeat some circumstances to avoid obscurity.

On Wednesday last we had the usual commencement. Eighteen young gentlemen took their Bachelor's degrees, and a considerable number their Master's degrees. The degree of Doctor of Laws was bestowed on Mr. Dickinson the Farmer, and Mr. Galloway the Speaker of the Pennsylvania Assembly, a distinguishing mark of honor, as there never was any of that kind done before in America. The commencement began at ten o'clock, when the President walked first into the church, a board of trustees following, and behind them those that were to take their first degrees. After a short prayer by the President, the head oration, which is always given to the greatest scholar by the President and Tutors, was pronounced in Latin by Mr. Samuel Smith, son of a Presbyterian minister in Pennsylvania. Then followed the other orations, disputes, and dialogues, dis-

tributed to each according to his merit, and last of all was pronounced the valedictory oration by Mr. John Henry, son of a gentleman in Maryland. This is given to the greatest orator. We had a very great assembly of people, a considerable number of whom came from New York; those at Philadelphia were most of them detained by Races which were to follow on the next day.

Since commencement, the trustees have been sitting about business relative to the college, and have chosen for tutors for the ensuing year, for the junior class, Mr. Houston from North Carolina, in the room of Mr. Percam; for the freshman class, Mr. Reeve, (a gentleman who has for several years past kept a school at Elizabethtown,) in the room of Mr. Pemberton. The sophomore tutor, Mr. Thomson, still retains his place, remarkable for his skill in the sophomore studies, having taken care of that class for several years past. Mr. Halsey was chosen junior tutor, but refused. The trustees have likewise appointed Mr. Caldwell, a minister at Elizabethtown, to take a journey through the Southern Provinces as far as Georgia, to make collections by which the college fund may be enabled to increase the library, provide an apparatus of mathematical and philosophical instruments, and likewise to support professors, which would be a great addition to the advantages of this college. Dr. Witherspoon's business to Virginia is nearly the same, as I conjecture, and perhaps to form some acquaintance to induce gentlemen to send their sons to this college.

I feel great satisfaction from the assistance my uncle has received from the springs, and I flatter myself from the continuance of my mother's health that Dr. Shore's skill will effectually banish the cause of her late indisposition.

I recollect nothing more at present worth relating, but as often as opportunity and anything worthy your attention shall occur, be assured you shall hear from

Your affectionate son.

TO MR. JAMES MADISON.

NASSAU HALL, July 23, 1770.

HONORED SIR,— \* \* \* \*

We have no public news but the base conduct of the merchants in New York in breaking through their spirited resolutions not to import; a distinct account of which I suppose will be in the Virginia Gazette before this arrives. Their letter to the merchants in Philadelphia requesting their concurrence, was lately burnt by the students of this place in the college yard, all of them appearing in their black gowns, and the bell tolling.

The number of students has increased very much of late; there are about an hundred and fifteen in college, and in the grammar school twenty-two commence this fall, all of them in American cloth.

With my love to all the family, I am, honored sir, your affectionate son.

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TO JAMES MADISON, ESQ.

PRINCETON, October 9, 1771.

HONORED SIR,—In obedience to your requests I hereby send you an answer to yours of the 25th of September, which I received this morning. My letter by Dr. Witherspoon, who left this place yesterday week, contains most of what you desire to be informed of. I should be glad if your health and other circumstances should enable you to visit him during his stay in Virginia. I am persuaded you would be much pleased with him, and that he would be very glad to see you.

I was so particular in my last with regard to my determination about staying in Princeton this winter coming, that I need say nothing more in this place, my sentiments being still the same.

I am sorry Mr. Chew's mode of conveyance will not answer in Virginia. I expect to hear from him in a few days, by return

of a man belonging to this Town from New London, and shall then acquaint him with it and get it remedied by the methods you propose.

Mr. James Martin was here at commencement, and had an opportunity of hearing from his brothers and friends in Carolina by a young man lately come from thence to this college; however, I shall follow your directions in writing to him immediately, and visiting him as soon as I find it convenient.

I am, Dr sir, your affectionate son.

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TO MR. WILLIAM BRADFORD, JR.

*(At the Coffee-House, Philadelphia.—By the post.)*

ORANGE, VIRGINIA, November 9. 1772.

MY DEAR B.,—You moralize so prettily, that if I were to judge from some parts of your letter of October 13, I should take you for an old philosopher that had experienced the emptiness of earthly happiness; and I am very glad that you have so early seen through the romantic paintings with which the world is sometimes set off by the sprightly imaginations of the ingenious. You have happily supplied, by reading and observation, the want of experiment; and therefore I hope you are sufficiently guarded against the allurements and vanities that beset us on our first entrance on the theatre of life. Yet, however nice and cautious we may be in detecting the follies of mankind, and framing our economy according to the precepts of Wisdom and Religion, I fancy there will commonly remain with us some latent expectation of obtaining more than ordinary happiness and prosperity till we feel the convincing argument of actual disappointment. Though I will not determine whether we shall be much the worse for it if we do not allow it to intercept our views towards a future state, because strong desires and great hopes instigate us to arduous enterprizes, fortitude, and perseverance. Nevertheless, a watchful eye must be kept on ourselves, lest while we are building ideal monu-

ments of renown and bliss here, we neglect to have our names enrolled in the annals of Heaven. These thoughts come into my mind because I am writing to you, and thinking of you. As to myself, I am too dull and infirm now to look out for any extraordinary things in this world, for I think my sensations for many months past have intimated to me not to expect a long or healthy life; though it may be better with me after some time, [but] I hardly dare expect it, and therefore have little spirit and alacrity to set about anything that is difficult in acquiring and useless in possessing after one has exchanged time for eternity. But you have health, youth, fire, and genius, to bear you along through the high track of public life, and so may be more interested and delighted in improving on hints that respect the temporal though momentous concerns of man.

I think you made a judicious choice of History and the science of morals for your winter's study. They seem to be of the most universal benefit to men of sense and taste in every post, and must certainly be of great use to youth in settling the principles and refining the judgment, as well as in enlarging knowledge and correcting the imagination. I doubt not but you design to season them with a little divinity now and then, which, like the philosopher's stone, in the hands of a good man, will turn them and every lawful acquirement into the nature of itself, and make them more precious than fine gold.

As you seem to require that I should be open and unreserved, (which is indeed the only proof of true friendship,) I will venture to give you a word of advice, though it be more to convince you of my affection for you than from any apprehension of your needing it. Pray do not suffer those impertinent fops that abound in every city to divert you from your business and philosophical amusements. You may please them more by admitting them to the enjoyment of your company, but you will make them respect and admire you more by showing your indignation at their follies, and by keeping them at a becoming distance. I am luckily out of the way of such troubles, but I know you are surrounded with them; for they breed in towns and populous places as naturally as flies do in the shambles,

because there they get food enough for their vanity and impertinence.

I have undertaken to instruct my brothers and sisters in some of the first rudiments of literature; but it does not take up so much of my time but I shall always have leisure to receive and answer your letters, which are very grateful to me, I assure you; and for reading any performances you may be kind enough to send me, whether of Mr. Freneau or anybody else. I think myself happy in your correspondence, and desire you will continue to write as often as you can, as you see I intend to do by the early and long answer I send you. You are the only valuable friend I have settled in so public a place, and I must rely on you for an account of all literary transactions in your part of the world.

I am not sorry to hear of Livingston's getting a degree. I heartily wish him well, though many would think I had but little reason to do so; and if he would be sensible of his opportunities and encouragements, I think he might still recover. Lucky (?) and his company, after their feeble yet wicked assault upon Mr. Erwin, in my opinion, will disgrace the catalogue of names; but they are below contempt, and I spend no more words about them.

And now, my friend, I must take my leave of you, but with such hopes that it will not be long before I receive another epistle from you, as make me more cheerfully conclude and subscribe myself

Your sincere and affectionate friend.

Your direction was right; however, the addition of "Jr." to my name would not be improper.

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TO WILLIAM BRADFORD, JUN.

ORANGE COUNTY, VIRGINIA, April 28, 1773.

DEAR B.,—I received your letter dated March the 1st about a week ago; and it is not more to obey your demands than to

fulfil my own desires that I give you this early answer. I am glad you disclaim all punctiliousness in our correspondence. For my own part I confess I have not the face to perform ceremony in person, and I equally detest it on paper; though as Tully says, It cannot blush. Friendship, like all truth, delights in plainness and simplicity, and it is the counterfeit alone that needs ornament and ostentation. I am so thoroughly persuaded of this, that when I observe any one over complaisant to me in his professions and promises, I am tempted to interpret his language thus: "As I have no real esteem for you, and for certain reasons think it expedient to appear well in your eye, I endeavor to varnish falsehood with politeness, which I think I can do in so ingenious a manner that so vain a blockhead as you cannot see through it."

I would have you write to me when you feel as you used to do, when we were under the same roof, and you found it a recreation and release from business and books to come and chat an hour or two with me. The case is such with me that I am too remote from the post to have the same choice, but it seldom happens that an opportunity catches me out of a humor of writing to my old Nassovian friends, and you know what place you hold among them.

I have not seen a single piece against the Doctor's address. I saw a piece advertised for publication in the Philadelphia Gazette, entitled "Candid remarks," &c., and that is all I know about it. These things seldom reach Virginia, and when they do, I am out of the way of them. I have a curiosity to read those authors who write with "all the rage of impotence," not because there is any excellence or wit in their writings, but because they implicitly proclaim the merit of those they are railing against, and give them an occasion of shewing by their silence and contempt that they are invulnerable. I am heartily obliged to you for your kind offer of sending me some of these performances. I should also willingly accept Freneau's works, and the "Sermons to Doctors in Divinity," which I hear are published, and whatever else you reckon worth reading. Please to note the cost of the articles, for I will by no means suffer our



acquaintance to be an expense on your part alone, and I have nothing fit to send you to make it reciprocal. In your next letter be more particular as to yourself, your intentions, present employments, &c., Erwin, McPherson, &c., the affairs of the college. Is the lottery like to come to anything? There has happened no change in my purposes since you heard from me last. My health is a little better, owing, I believe, to more activity and less study, recommended by physicians. I shall try, if possible, to devise some business that will afford me a sight of you once more in Philadelphia within a year or two. I wish you would resolve the same with respect to me in Virginia, though within a shorter time. I am sorry my situation affords me nothing new, curious, or entertaining, to pay you for your agreeable information and remarks. You, being at the fountain head of political and literary intelligence, and I in an obscure corner, you must expect to be greatly loser on that score by our correspondence. But as you have entered upon it, I am determined to hold you to it, and shall give you some very severe admonitions whenever I perceive a remissness or brevity in your letters. I do not intend this as a beginning of reproof, but as a caution to you never to make it necessary at all.

If Mr. Horton is in Philadelphia, give him my best thanks for his kindness in assisting Mr. Wallace to do some business for [.....?] not long ago.

I must re-echo your pressing invitations to [.....?] do with the more confidence as I have complied.

I am, dear sir, yours, most unfeignedly.

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TO WILLIAM BRADFORD, ESQ.

ORANGE COUNTY, VIRGINIA, 6th Sept., 1773.

DEAR SIR,—If I did not love you too well to scold at you, I should begin this with upbraiding your silence, contrary to

your express promise and my earnest solicitations. The bundle of pamphlets you sent by the post has miscarried, or I would not trouble you with sending them again; but perhaps if you would inquire of the posts, they might still be discovered.

I expect this will be handed to you by Mr. Erwin, who has been kind enough to extend his journey this far, whose praise is in every man's mouth here for an excellent discourse he this day preached for us. He will let you know everything that occurs to me worth mentioning at commencement, or Philadelphia, if you should not attend the commencement. Gratitude to him, and friendship to yourself and others, with some business, perhaps, will induce me to visit Philadelphia or Princeton in the spring, if I should be alive, and should have health sufficient.

I set too high a value on Mr. Erwin's company to write much to you now, and besides have the like office of friendship to several other friends.

I am, dear sir, yours most affectionately.

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TO MR. WILLIAM BRADFORD, JR.

January the 24th, 1774.

MY WORTHY FRIEND,—Yours of the 25th of last month came into my hands a few days past. It gave singular pleasure, not only because of the kindness expressed in it, but because I had reason to apprehend the letter you received last from me had miscarried, and I should fail in procuring the intelligence I wanted before the trip I designed in the spring.

I congratulate you on your heroic proceedings in Philadelphia with regard to the tea. I wish Boston may conduct matters with as much discretion as they seem to do with boldness. They seem to have great trials and difficulties by reason of the obduracy and ministerialism of their Governor. How-

ever, political contests are necessary sometimes, as well as military, to afford exercise and practice, and to instruct in the art of defending liberty and property. I verily believe the frequent assaults that have been made on America (Boston especially) will in the end prove of real advantage.

If the Church of England had been the established and general religion in all the northern colonies as it has been among us here, and uninterrupted tranquillity had prevailed throughout the continent, it is clear to me that slavery and subjection might and would have been gradually insinuated among us. Union of religious sentiments begets a surprising confidence, and ecclesiastical establishments tend to great ignorance and corruption; all of which facilitate the execution of mischievous projects.

But away with politics! Let me address you as a student and philosopher, and not as a patriot, now. I am pleased that you are going to converse with the Edwards and Henrys and Charleses, &c., &c., who have swayed the British sceptre, though I believe you will find some of them dirty and unprofitable companions, unless you will glean instruction from their follies, and fall more in love with liberty by beholding such detestable pictures of tyranny and cruelty.

I was afraid you would not easily have loosened your affections from the belles lettres. A delicate taste and warm imagination like yours must find it hard to give up such refined and exquisite enjoyments for the coarse and dry study of the law. It is like leaving a pleasant flourishing field for a barren desert; perhaps I should not say barren either, because the law does bear fruit, but it is sour fruit, that must be gathered and pressed and distilled before it can bring pleasure or profit. I perceive I have made a very awkward comparison; but I got the thought by the end, and had gone too far to quit it before I perceived that it was too much entangled in my brain to run it through; and so you must forgive it. I myself used to have too great a hankering after those amusing studies. Poetry, wit, and criticism, romances, plays, &c., captivated me much; but I began to discover that they deserve but a small portion

of a mortal's time, and that something more substantial, more durable, and more profitable, befits a riper age. It would be exceedingly improper for a laboring man to have nothing but flowers in his garden, or to determine to eat nothing but sweet-meats and confections. Equally absurd would it be for a scholar and a man of business to make up his whole library with books of fancy, and feed his mind with nothing but such luscious performances.

When you have an opportunity and write to Mr. Brackenridge, pray tell him I often think of him, and long to see him, and am resolved to do so in the spring. George Luckey was with me at Christmas, and we talked so much about old affairs and old friends, that I have a most insatiable desire to see you all. Luckey will accompany me, and we are to set off on the 10th of April, if no disaster befalls either of us.

I want again to breathe your free air. I expect it will mend my constitution and confirm my principles. I have indeed as good an atmosphere at home as the climate will allow; but have nothing to brag of as to the state and liberty of my country. Poverty and luxury prevail among all sorts; pride, ignorance, and knavery among the priesthood, and vice and wickedness among the laity. This is bad enough, but it is not the worst I have to tell you. That diabolical, hell-conceived principle of persecution rages among some; and to their eternal infamy, the clergy can furnish their quota of imps for such business. This vexes me the worst of anything whatever. There are at this time in the adjacent country not less than five or six well-meaning men in close jail for publishing their religious sentiments, which in the main are very orthodox. I have neither patience to hear, talk, or think of anything relative to this matter; for I have squabbled and scolded, abused and ridiculed, so long about it to little purpose, that I am without common patience. So I must beg you to pity me, and pray for liberty of conscience to all.

I expect to hear from you once more before I see you, if time will admit; and want to know when the synod meets, and where; what the exchange is at, and as much about my friends

and other matters as you can [tell,] and think worthy of notice.  
Till I see you,

Adieu !

N. B. Our correspondence is too far advanced to require apology for bad writing and blots.

Your letter to Mr. Wallace is yet in my hands, and shall be forwarded to you as soon as possible. I hear nothing from him by letter or fame.

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TO MR. WILLIAM BRADFORD, JR.

VIRGINIA, ORANGE COUNTY, April 1, 1774.

MY WORTHY FRIEND,—I have another favor to acknowledge in the receipt of your kind letter of March the 4th. I did not intend to have written again to you before I obtained a nearer communication with you; but you have too much interest in my inclinations ever to be denied a request.

Mr. Brackenridge's illness gives me great uneasiness; I think he would be a loss to America. His merit is rated so high by me that I confess, if he were gone, I could almost say with the poet, that his country could furnish such a pomp for death no more. But I solace myself from Finley's ludicrous descriptions as you do.

Our Assembly is to meet the first of May, when it is expected something will be done in behalf of the dissenters. Petitions, I hear, are already forming among the persecuted Baptists, and I fancy it is in the thoughts of the Presbyterians also, to intercede for greater liberty in matters of religion. For my own part, I cannot help being very doubtful of their succeeding in the attempt. The affair was on the carpet during the last session; but such incredible and extravagant stories were told in the House of the monstrous effects of the enthusiasm prevalent among the sectaries, and so greedily swallowed by their ene-

mies, that I believe they lost footing by it. And the bad name they still have with those who pretend too much contempt to examine into their principles and conduct, and are too much devoted to the ecclesiastical establishment to hear of the toleration of dissentients, I am apprehensive, will be again made a pretext for rejecting their requests.

The sentiments of our people of fortune and fashion on this subject are vastly different from what you have been used to. That liberal, catholic, and equitable way of thinking, as to the rights of conscience, which is one of the characteristics of a free people, and so strongly marks the people of your province, is but little known among the zealous adherents to our hierarchy. We have, it is true, some persons in the Legislature of generous principles both in Religion and Politics; but number, not merit, you know, is necessary to carry points there. Besides, the clergy are a numerous and powerful body, have great influence at home by reason of their connection with and dependence on the Bishops and Crown, and will naturally employ all their art and interest to depress their rising adversaries; for such they must consider dissenters who rob them of the good will of the people, and may, in time, endanger their livings and security.

You are happy in dwelling in a land where those inestimable privileges are fully enjoyed; and the public has long felt the good effects of this religious as well as civil liberty. Foreigners have been encouraged to settle among you. Industry and virtue have been promoted by mutual emulation and mutual inspection: commerce and the arts have flourished; and I cannot help attributing those continual exertions of genius which appear among you to the inspiration of liberty, and that love of fame and knowledge which always accompany it. Religious bondage shackles and debilitates the mind, and unfits it for every noble enterprise, every expanded prospect. How far this is the case with Virginia will more clearly appear when the ensuing trial is made.

I am making all haste in preparing for my journey. It appears as if it would be the first of May before I can start, which I can more patiently bear, because I may possibly get no com-

pany before that time; and it will answer so exactly with the meeting of the synod. George Luckey talks of joining me if I can wait till then. I am resolutely determined to come if it is in my power. If anything hinders me, it will be most likely the indisposition of my mother, who is in a very low state of health; and if she should grow worse, I am afraid she will be more unwilling to part with my brother, as she will be less able to bear a separation. If it should unfortunately happen that I should be forced off or give out coming, Luckey on his return to Virginia will bring me whatever publications you think worth sending, and among others [Caspapini's?] letters.

But whether I come or not, be assured I retain the most ardent affection and esteem for you, and the most cordial gratitude for your many generous kindnesses. It gives me real pleasure when I write to you that I can talk in this language without the least affectation, and without the suspicion of it, and that if I should omit expressing my love for you, your friendship can supply the omission; or if I make use of the most extravagant expressions of it, your corresponding affection can believe them to be sincere. This is a satisfaction and delight unknown to all who correspond for business and conveniency, but richly enjoyed by all who make pleasure and improvement the business of their communications.

Farewell,

J. M.

P. S. You need no longer direct to the care of Mr. Maury.

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TO WILLIAM BRADFORD, JR.

July 1. 1774.

DEAR SIR,—I am once more got into my native land, and into the possession of my customary employments, solitude and contemplation; though I must confess not a little disturbed by the

sound of war, blood, and plunder, on the one hand, and the threats of slavery and oppression on the other. From the best accounts I can obtain from our frontiers, the savages are determined on the extirpation of the inhabitants, and no longer leave them the alternative of death or captivity. The consternation and timidity of the white people, who abandon their possessions without making the least resistance, are as difficult to be accounted for as they are encouraging to the enemy. Whether it be owing to the unusual cruelty of the Indians, the want of necessary implements or ammunition for war, or to the ignorance and inexperience of many who, since the establishment of peace, have ventured into those new settlements, I can neither learn, nor with any certainty conjecture. However, it is confidently asserted that there is not an inhabitant for some hundreds of miles back which have been settled for many years except those who are [forted?] in or embodied by their military commanders. The state of things has induced Lord Dunmore, contrary to his intentions at the dissolution of the Assembly, to issue writs for a new election of members, whom he is to call together on the 11th of August.

As to the sentiments of the people of this Colony with respect to the Bostonians, I can assure you I find them very warm in their favor. The natives are very numerous and resolute, are making resolves in almost every county, and I believe are willing to fall in with the other Colonies in any expedient measure, even if that should be the universal prohibition of trade. It must not be denied, though, that the Europeans, especially the Scotch, and some interested merchants among the natives, discountenance such proceedings as far as they dare; alledging the injustice and perfidy of refusing to pay our debts to our generous creditors at home. This consideration induces some honest, moderate folks to prefer a partial prohibition, extending only to the importation of goods.

We have a report here that Governor Gage has sent Lord Dunmore some letters relating to public matters in which he says he has strong hopes that he shall be able to bring things at Boston to an amicable settlement. I suppose you know



whether there be any truth in the report, or any just foundation for such an opinion in Gage.

It has been said here by some, that the appointed fast was disregarded by every *Scotch* clergyman, though it was observed by most of the others who had timely notice of it. I cannot avouch it for an absolute certainty, but it appears no ways incredible.

I was so lucky as to find Dean Tucker's tracts on my return home, sent by mistake with some other books imported this spring. I have read them with peculiar satisfaction and illumination with respect to the interests of America and Britain. At the same time his ingenious and plausible defence of parliamentary authority carries in it such defects and misrepresentations, as confirm me in political orthodoxy—after the same manner as the specious arguments of Infidels have established the faith of inquiring Christians.

I am impatient to hear from you; and do now certainly [earnestly?] renew the stipulation for that friendly correspondence which alone can comfort me in the privation of your company. I shall be punctual in transmitting you an account of everything that can be acceptable, but must freely absolve you from as strict an obligation, which your application to more important business will not allow, and which my regard for your ease and interests will not suffer me to enjoin.

I am, dear sir, your faithful friend,

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TO MR. WILLIAM BRADFORD.

VIRGINIA, ORANGE COUNTY, January 20, 1775.

MY WORTHY FRIEND,—Your very acceptable favors by Mr. Rutherford arrived safe, but I perceived by the date had a very tedious passage, which perhaps may be attributed to the *craziness* of the vessel in which you embarked them. I ought

to mention, in particular, that I did not receive them till after I wrote my last, as an apology for my not then acknowledging it.

I entirely acquiesce in your opinion of our friend Brackenridge's talents, and think his poem an indubitable proof of what you say on that head. It certainly has many real beauties in it, and several strokes of a strong original genius; but at the same time, as you observe, some very obvious defects, which I am afraid, too, are more discernible to common readers than its excellencies. If this be the case, I am apprehensive it will not answer the end proposed, which, as I collect from his letter to me, was to raise the character of his academy by the fame of its teacher. It is on this account, he says, he desires it might have a pretty general reading in this Government. For my own part, I could heartily wish, for the honor of the author and the success of the performance, that it might fall into the hands only of the impartial and judicious. I have shewn it to some of our middling sort of folks, and I am persuaded it will be not much relished by that class of my countrymen. The subject is itself frightful; blank verse, in some measure unintelligible, at least requires stricter attention than most people will bestow; and the antiquated phraseology, however eligible in itself, disgusts such as affect modern fashion. In short, the theme is not interesting enough, nor the dress sufficiently *à la mode* to attract the notice of the generality. The same merit in a political or humorous composition would have rung the author's fame through every Province on the continent. Something of this kind I am encouraged to expect soon from a passage of his letter in which he mentions a design of finishing a poem then in hand, on the present times; and from the description he gives of it, (if it be not too local,) I doubt not will meet with the public's applause. He informed me it would be ready for the press in three months from the time he wrote. If so, you must have seen it by this time.

We are very busy at present in raising men and procuring the necessaries for defending ourselves and our friends in case of a sudden invasion. The extensiveness of the demands of the

Congress, and the pride of the British nation, together with the wickedness of the present ministry, seem, in the judgment of our politicians, to require a preparation for extreme events. There will, by the Spring I expect, be some thousands of well-trained, high-spirited men ready to meet danger whenever it appears, who are influenced by no mercenary principles, but bearing their own expenses, and having the prospect of no recompense but the honor and safety of their country.

I suppose the inhabitants of your Province are more reserved in their behavior, if not more easy in their apprehension, from the prevalence of Quaker principles and politics. The Quakers are the only people with us who refuse to accede to the Continental association. I cannot forbear suspecting them to be under the control and direction of the leaders of the party in your quarter; for I take those of them that we have to be too honest and simple to have any sinister or secret views, and I do not observe anything in the association inconsistent with their religious principles. When I say they refuse to accede to the association, my meaning is that they refuse to sign it; that being the method used among us to distinguish friends from foes, and to oblige the common people to a more strict observance of it. I have never heard whether the like method has been adopted in the other Governments.

I have not seen the following in print, and it seems to be so just a specimen of Indian eloquence and mistaken valor, that I think you will be pleased with it. You must make allowance for the unskilfulness of the interpreters.

The speech of Logan, a Shawanese Chief, to Lord Dunmore: "I appeal to any white man to say, if ever he entered Logan's cabin hungry, and I gave him not meat; if ever he came cold or naked, and I gave him not clothing. During the course of the last long and bloody war, Logan remained idle in his tent, an advocate for peace; nay, such was my love for the whites, that those of my own country pointed at me as they passed by, and said, 'Logan is the friend of white men.' I had even thought to live with you but for the injuries of one man. Col. Cressop, the last spring, in cold blood and unprovoked, cut off all the

relations of Logan, not sparing even my women and children. There runs not a drop of my blood in the veins of any human creature. This called on me for revenge. I have sought it; I have killed many; I have fully glutted my vengeance. For my country I rejoice at the beams of peace; but do not harbor a thought that mine is the joy of fear. Logan never felt fear. He will not turn on his heel to save his life. Who is there to mourn for Logan?—not one!”

If you should see any of our friends from Princeton a little before the time of your intending to write to me, and could transmit any little intelligence concerning the health, &c., of my little brother there, it would be very acceptable to me, and very gratifying to a fond mother; but I desire it may only be done when it will cost you less than five words.

We had with us a little before Christmas the Rev. Moses Allen, on his return from Boston to Charlestown. He told me he came through Philadelphia, but did not see you, though he expresses a singular regard for you, and left his request with me that you would let him hear from you whenever it is convenient, promising to return the kindness with punctuality. He travelled with considerable equipage for a dissenting ecclesiastic, and seems to be willing to superadd the airs of the fine gentleman to the graces of the spirit. I had his company for several days, during which time he preached two sermons with general approbation. His discourses were above the common run some degree; and his appearance in the pulpit on the whole was no discredit to [———?] He retains too much of his pristine levity, but promises amendment. I wish he may for the sake of himself, his friends, and his flock. I only add that he seems to be one of those geniuses that are formed for shifting in the world rather than shining in a college, and that I really believe him to possess a friendly and generous disposition.

You shall ere long hear from me again. Till then, *Vive, vale et Lætare.*

TO JAMES MADISON, ESQ.

WILLIAMSBURG, June 27, 1776.

HOND. SIR,— \* \* \* \* \*

It is impossible for me to say when the Convention will adjourn: but am pretty certain it will not be so soon as was expected when I wrote by ———.

It is said that seven ships, some of them very large, have within a few days past come to the aid of Dunmore. Whether they be transports or ships of war is not yet determined.

I am, dear sir, yours affectionately.

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[Among Mr. Madison's papers is the following copy, both in print and manuscript, of the Declaration of Rights, as reported by the select committee of the Virginia convention of 1776. It corresponds in the main, though not without occasional variations, with the original draft prepared by Colonel George Mason. In the last article, to which the note there subjoined by Mr. Madison refers, the draft of the committee and that of Colonel Mason were in all respects identical.]

The following Declaration was reported to the Convention by the committee appointed to prepare the same, and referred to the consideration of a committee of the whole Convention; and in the mean time is ordered to be printed for the perusal of the members :

A DECLARATION OF RIGHTS made by the representatives of the good people of Virginia, assembled in full and free convention, which rights do pertain to us and our posterity, as the basis and foundation of government.

1. That all men are born equally free and independent, and have certain inherent natural rights, of which they cannot, by any compact, deprive their posterity; among which are the enjoyment of life and liberty, with the means of acquiring and possessing property, and pursuing and obtaining happiness and safety.

2. That all power is vested in, and consequently derived

from, the people: that magistrates are their trustees and servants, and at all times amenable to them.

3. That government is, or ought to be, instituted for the common benefit, protection, and security of the people, nation, or community: of all the various modes and forms of government, that is best which is capable of producing the greatest degree of happiness and safety, and is most effectually secured against the danger of mal-administration; and that whenever any government shall be found inadequate or contrary to these purposes, a majority of the community hath an indubitable, unalienable, and indefeasible right to reform, alter, or abolish it, in such manner as shall be judged most conducive to the public weal.

4. That no man or set of men are entitled to exclusive or separate emoluments or privileges from the community but in consideration of public services; which not being descendible or hereditary, the idea of a man born a magistrate, a legislator, or a judge, is unnatural and absurd.

5. That the legislative and executive powers of the State should be separate and distinct from the judicative; and that the members of the two first may be restrained from oppression by feeling and participating the burdens of the people, they should, at fixed periods, be reduced to a private station, return into that body from which they were originally taken, and the vacancies be supplied by frequent, certain, and regular elections.

6. That elections of members to serve as representatives of the people, in Assembly, ought to be free; and that all men, having sufficient evidence of permanent common interest with and attachment to the community, have the right of suffrage.

7. That no part of a man's property can be taken from him, or applied to public uses, without his own consent or that of his legal representatives; nor are the people bound by any laws but such as they have, in like manner, assented to for their common good.

8. That all power of suspending laws, or the execution of laws by any authority without consent of the representatives

of the people, is injurious to their rights and ought not to be exercised.

9. That laws having retrospect to crimes, and punishing offences committed before the existence of such laws, are generally oppressive and ought to be avoided.

10. That in all capital or criminal prosecutions a man hath a right to demand the cause and nature of his accusation, to be confronted with the accusers or witnesses, to call for evidence in his favor, and to a speedy trial by an impartial jury of his vicinage, without whose unanimous consent he cannot be found guilty, nor can he be compelled to give evidence against himself; that no man be deprived of his liberty except by the law of the land, or the judgment of his peers.

11. That excessive bail ought not to be required, nor excessive fines imposed, nor cruel and unusual punishments inflicted.

12. That warrants unsupported by evidence, whereby any officer or messenger may be commanded or required to search suspected places, or to seize any person or persons, his or their property, not particularly described, are grievous and oppressive, and ought not to be granted.

13. That in controversies respecting property, and in suits between man and man, the ancient trial by jury is preferable to any other, and ought to be held sacred.

14. That the freedom of the press is one of the great bulwarks of liberty, and can never be restrained but by despotic governments.

15. That a well-regulated militia, composed of the body of the people, trained to arms, is the proper, natural, and safe defence of a free State; that standing armies in time of peace should be avoided as dangerous to liberty; and that in all cases the military should be under strict subordination to, and governed by, the civil power.

16. That the people have a right to uniform government, and therefore that no government separate from, or independent of the government of Virginia, ought of right to be erected or established within the limits thereof.

17. That no free government or the blessings of liberty can

be preserved to any people but by a firm adherence to justice, moderation, temperance, frugality, and virtue, and by frequent recurrence to fundamental principles.

18. That Religion, or the duty which we owe to our CREATOR, and the manner of discharging it, can be directed only by reason and conviction, not by force or violence; and therefore that all men should enjoy the fullest toleration in the exercise of religion according to the dictates of conscience, unpunished and unrestrained by the magistrate, unless, under color of religion, any man disturb the peace, the happiness, or safety of society; and that it is the mutual duty of all to practice Christian forbearance, love, and charity towards each other.\*

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[The following draught of a "Plan of Government," which seems to have been the original sketch of the Virginia Constitution of 1776, is found among Mr. Madison's papers, both in print and transcribed by him; and the two notes, the one at the beginning and the other at the end, are subjoined in his hand-writing to the manuscript copy:]

#### A PLAN OF GOVERNMENT,

Laid before the Committee of the House, which they have ordered to be printed for the perusal of the members.†

1. Let the legislative, executive, and judicative departments

\* On the printed paper here literally copied is a manuscript variation of this last article, making it read: "That religion, or the duty we owe to our Creator, and the manner of discharging it, being under the direction of reason and conviction only, not of violence or compulsion, all men are equally entitled to the full and free exercise of it according to the dictates of conscience; and therefore that no man or class of men ought, on account of religion, to be invested with peculiar emoluments or privileges, nor subjected to any penalties or disabilities, unless, under color of religion, the preservation of equal liberty and the existence of the State be manifestly endangered.

This variation is in the handwriting of J. M., and is recollected to have been brought forward by him, with a view more particularly to substitute for the idea expressed by the term "*toleration*" an absolute and equal right in all to the exercise of religion according to the dictates of conscience. The proposal was moulded into the last article in the Declaration as finally established, from which the term "*toleration*" is excluded.—J. M.

† An alteration in the handwriting of J. M. erases "of the House," and inserts after committee, *appointed for that purpose*; and adds at the end after "members,"



be separate and distinct, so that neither exercise the powers properly belonging to the other.

2. Let the legislative be formed of two distinct branches, who together shall be a complete Legislature. They shall meet once or oftener every year, and shall be called the GENERAL ASSEMBLY of VIRGINIA.

3. Let one of these be called the Lower House of Assembly, and consist of two delegates or representatives, chosen for each county annually, by such men as have resided in the same for one year last past, are freeholders of the county, possess an estate of inheritance of land in Virginia of at least one thousand pounds value, and are upwards of twenty-four years of age.

4. Let the other be called the Upper House of Assembly, and consist of twenty-four members, for whose election let the different counties be divided into twenty-four districts, and each county of the respective district, at the time of the election of its delegates for the Lower House, choose twelve deputies or sub-electors, being freeholders residing therein, and having an estate of inheritance of lands within the district, of at least five hundred pounds value. In case of dispute, the qualifications to be determined by the majority of the said deputies. Let these deputies choose by ballot one member for the Upper House of Assembly, who is a freeholder of the district, hath been a resident therein for one year last past, possesses an estate of inheritance of lands in Virginia of at least two thousand pounds value, and is upwards of twenty-eight years of age. To keep up this Assembly by rotation let the districts be equally divided into four classes and numbered. At the end of one year, after the general election, let the six members elected by the first division be displaced, rendered ineligible for four years, and

*of the House; making the whole read, Laid before the committee appointed for that purpose, which they have ordered to be printed for the perusal of the members of the House.*

From this correction it appears that what was laid before the committee was printed by its order, not by that of the Convention, as was done in the case of the "Declaration of Rights," reported by Mr. Cary from the appointed committee; nor is there in the journal any order for printing any plan of government reported to the Convention from a committee.—J. M.

the vacancies be supplied in the manner aforesaid. Let this rotation be applied to each division according to its number, and continued in due order annually.

5. Let each House settle its own rules of proceeding; direct writs of election for supplying intermediate vacancies; and let the right of suffrage, both in the election of members for the Lower House and of deputies for the districts, be extended to those having leases for land in which there is an unexpired term of seven years, and to every housekeeper who hath resided for one year last past in the county, and hath been the father of three children in this country.

6. Let all laws originate in the lower House, to be approved or rejected by the upper House, or to be amended with the consent of the lower House, except money bills, which in no instance shall be altered by the upper House, but wholly approved or rejected.

7. Let a Governor, or Chief Magistrate, be chosen annually by joint ballot of both Houses, who shall not continue in that office longer than three years successively, and then be ineligible for the next three years. Let an adequate but moderate salary be settled on him during his continuance in office; and let him, with the advice of a Council of State, exercise the executive powers of Government, and the power of proroguing or adjourning the General Assembly, or of calling it upon emergencies, and of granting reprieves or pardons, except in cases where the prosecution shall have been carried on by the Lower House of Assembly.

8. Let a privy Council or Council of State, consisting of eight members, be chosen by joint ballot of both Houses of Assembly promiscuously, from their own members, or the people at large, to assist in the administration of Government.

Let the Governor be President of this Council; but let them annually choose one of their own members as Vice President, who, in case of the death or absence of the Governor, shall act as Lieutenant Governor. Let these members be sufficient to act, and their advice be entered of record in their proceedings. Let them appoint their own clerk, who shall have a salary set-

tled by law, and taken with oath of secrecy, in such matters as he shall be directed to conceal, unless called upon by the Lower House of Assembly for information. Let a sum of money appropriated to that purpose be divided annually among the members in proportion to their attendance, and let them be incapable, during their continuance in office, of sitting in either House of Assembly. Let two members be removed by ballot of their own Board at the end of every three years, and be ineligible for the next three years. Let this be regularly continued by rotation, so as that no member be removed before he hath been three years in the Council; and let these vacancies, as well as those occasioned by death or incapacity, be supplied by new elections in the same manner as the first.

9. Let the Governor, with the advice of the Privy Council, have the appointment of the militia officers, and the government of the militia, under the laws of the country.

10. Let the two Houses of Assembly, by joint ballot, appoint Judges of the Supreme Court, Judges in Chancery, Judges of the Admiralty, and the Attorney General, to be commissioned by the Governor, and continue in office during good behaviour. In case of death or incapacity, let the Governor, with the advice of the Privy Council, appoint persons to succeed in office *pro tempore*, to be approved or displaced by both Houses. Let these officers have fixed and adequate salaries, and be incapable of having a seat in either House of Assembly, or in the Privy Council, except the Attorney General and the Treasurer, who may be permitted to a seat in the lower House of Assembly.

11. Let the Governor and Privy Council appoint justices of the peace for the counties. Let the clerks of all the courts, the sheriffs, and coroners, be nominated by the respective courts, approved by the Governor and Privy Council, and commissioned by the Governor. Let the clerks be continued during good behaviour, and all fees be regulated by law. Let the justices appoint constables.

12. Let the Governor, any of the Privy Counsellors, Judges of the Supreme Court, and all other officers of Government, for mal-administration or corruption be prosecuted by the Lower

House of Assembly, (to be carried on by the Attorney General, or such other person as the House may appoint,) in the Supreme Court of common law. If found guilty, let him or them be either removed from office, or forever disabled to hold any office under the Government, or subjected to such pains or penalties as the laws shall direct.

13. Let all commissions run in the name of the *Commonwealth of Virginia*, and be tested by the Governor, with the seal of the Commonwealth annexed. Let writs run in the same manner, and be tested by the clerks of the several courts. Let indictments conclude, *against the peace and dignity of the Commonwealth*.

14. Let a Treasurer be appointed annually, by joint ballot of both Houses.

15. In order to introduce this Government, let the representatives of the people now met in Convention choose twenty-four members to be an Upper House, and let both Houses, by joint ballot, choose a Governor and Privy Council; the Upper House to continue until the last day of March next, and the other officers until the end of the succeeding session of Assembly. In case of vacancies, the President to issue writs for new elections.\*

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TO JAMES MADISON, ESQ.

ORANGE, March, 1777.

HOND. SIR,— \* \* \* \* \*

The following odd affair has furnished the court of this county with some very unexpected business.

Two persons travelling from Philadelphia to the southward, one of them a Frenchman and an officer in the Continental

\* It is not known with certainty from whom this first draught of a plan of Government proceeded. There is a faint tradition that Meriwether Smith spoke of it as originating with him. What is remembered by J. M. is, that George Mason was the most prominent member in discussing and developing the Constitution in its passage through the Convention. The preamble is known to have been furnished by Thomas Jefferson.—J. M.

army, and the other a man of decent figure, came to the court-house on the evening of the court day, and immediately inquired for a member of the committee. Being withdrawn with several members into a private room, they gave information that they fell in with a man on the road a few miles from the court-house, who, in the course of conversation on public affairs, gave abundant proof of his being an adherent to the King of Great Britain, and a dangerous enemy to the State; that he ran into the most outrageous abuse of our proceedings, and on their threatening to inform against him, in the most daring manner bid defiance to committees, or whoever should pretend to judge or punish him. They said the man they alluded to had come with them to the court-house, and they made no doubt but they could point him out in the crowd. On their so doing, the culprit appeared to be Benjamin Haley. As the committee had no jurisdiction in the case, it was referred to a justice of the peace. Every one seemed to be agreed that his conduct was a direct violation of law, and called aloud for public notice; but the witnesses being travellers, and therefore unable to attend at a trial, it was thought best not to undertake a prosecution which promised nothing but impunity and matter of triumph to the offender. Here the affair dropped, and every one supposed was entirely at an end; but as the Frenchman was accidentally passing through the room where Haley was, he took occasion to admonish the people of his being a disaffected person, and upbraided him for his tory principles. This introduced a debate, which was continued for some time with great heat on the part of the Frenchman, and great insolence on the part of Haley. At the request of the latter, they at length both appeared before a justice of the peace. Haley at first evaded the charges of his antagonist; but after some time, said he scorned to be *counterfeit*, and in answer to some questions that were put to him, signified that we were in the state of rebellion and had revolted from our lawful Sovereign, and that if the King had justice done him, his authority would still be in exercise among us. This passed in the presence of twenty or thirty persons, and rendered the testimony of the travellers needless. A warrant

for arresting him was immediately issued and executed. The criminal went through his examination, in which his very pleas seemed to aggravate his guilt. Witnesses were summoned, sworn, and their evidences taken; and on his obstinate refusal to give security for his appearance, he was committed to close gaol. This happened about eight o'clock. I have since heard he begged about one o'clock in the morning to be admitted to bail, and went home, but not without threats of revenge, and making public declaration that he was King George's man. I have stated the case thus particularly that you may, if an opportunity occurs, take the advice of some gentleman skilled in the law, on the most proper and legal mode of proceeding against him.

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TO JAMES MADISON, ESQ.

WILLIAMSBURG, January 23, 1778.

HONORED SIR,—I got safe to this place on Tuesday following the day I left home, and at the earnest invitation of my kinsman, Mr. Madison,\* have taken my lodgings in a room of the President's house, which is a much better accommodation than I could have promised myself.

You will be informed in due time by advertisement from the Governor what is proper to be done with the shoes, &c., collected for the army. You will be able to obtain so circumstantial an account of public affairs from Major Moore, that I may spare myself the trouble of anticipating it.

Although I well know how inconvenient and disagreeable it is to you to continue to act as Lieutenant of the county, I cannot help informing you that a resignation at this juncture is here supposed to have a very unfriendly aspect on the execution of the draught, and consequently to betray at least a want of patriotism and perseverance. This is so much the case that a recommendation of county Lieutenant this day received by

\* The Rev. James Madison, afterwards Bishop, was at this time President of William and Mary College.

the Governor, to supply the place of one who has resigned to the court, produced a private verbal message to the old Lieutenant to continue to act at least as long as the present measures were in execution.

I am, dear sir, your affectionate son.

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TO JAMES MADISON, ESQ.

WILLIAMSBURG, March 6, 1778.

HONORED SIR,— \* \* \* \* \*

We have no news here that can be depended on. It is said by Mr. King, who is just from Petersburg, that a gentleman was at that place who informed that sundry persons had arrived at Edenton from Providence Island, who affirmed that they saw in Providence a London paper giving an account that Bourgoyne's disaster had produced the most violent fermentation in England; that the Parliament had refused to grant the supplies for carrying on the war, and that a motion for acknowledging our independence was overruled by a small majority only.

The people who bring this news to Edenton, as the story goes, were prisoners with the enemy at Providence, when they were relieved by a New England privateer, which suddenly landed her men, took possession of the small fort that commanded the harbor, and secured several vessels that lay in it, one of which was given up to these men to bring them to the continent. I leave you to form your own judgment as to the credibility of this report. I wish it carried stronger marks of truth.

The Governor has just received a letter from the captain of the French frigate I mentioned in my last, informing him of his safe arrival in North Carolina with a rich cargo of various useful and important articles, which will be offered for sale to us. The frigate belongs to a company at Nantes, in France. We also hear, but in a less authentic manner, that 7,000 tents have arrived at Martinique, on their way from France to the grand army.

A letter from New York town, this moment received, informs us that an exchange of prisoners is at last agreed on between W. and H.

Your affectionate son.

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TO COLONEL JAMES MADISON.

WILLIAMSBURG, December 8, 1779.

HONORED SIR,—The assembly have not yet concluded their plan for complying with the requisitions from Congress. It may be relied on that that cannot be done without very heavy taxes on every species of property. Indeed, it is thought questionable whether it will not be found absolutely impossible. No exertions, however, ought to be omitted to testify our zeal to support Congress in the prosecution of the war. It is also proposed to procure a large sum on loan by stipulating to pay the interest in tobacco. A tax on this article necessary for that purpose is to be collected. Being very imperfectly acquainted with the proceedings of the Assembly on this matter, I must refer you for the particulars to the return of Major Moore, or some future opportunity. The law for escheats and forfeitures will be repealed as it respects orphans, &c. The effects of the measures taken by the Assembly on the credit of our money and the prices of things cannot be predicted. If our expectations had not been so invariably disappointed, they ought to be supposed very considerable. But from the rapid progress of depreciation at present, and the universal struggle among sellers to bring up prices, I cannot flatter myself with the hope of any great reformation. Corn is already at £20, and rising. Tobacco is also rising. Pork will probably command any price. Imported goods exceed everything else many hundreds per cent.

I am much at a loss how to dispose of Willey.\* I cannot think it would be expedient in the present state of things to

\* The familiar name of his younger brother.



send him out of the State. From a new arrangement of the college here, nothing is in future to be taught but the higher and rarer branches of science. The preliminary studies must, therefore, be pursued in private schools or academies. If the academy at Prince Edward is so far dissolved that you think his return thither improper, I would recommend his being put under the instruction of Mr. Maury, rather than suffer him to be idle at home. The languages, (including English,) geography, and arithmetic, ought to be his employment, till he is prepared to receive a finish to his education at this place.

By the late change, also, in the college, the former custom of furnishing the table for the president and professors is to be discontinued. I am induced by this consideration to renew my request for the flour mentioned to you. It will perhaps be the only opportunity I may have of requiting received and singular favors; and, for the reason just assigned, will be extremely convenient. I wish to know without any loss of time how far this supply may be reckoned on. Perhaps Mr. R. Burnley would receive and store it for me.

I am desired by a gentleman here to procure for him two bear skins to cover the foot of his chariot. If they can be bought anywhere in your neighborhood, I beg you or Ambrose will take the trouble to inquire for them, and send them to Captain Anderson, at Hanover town. If the flour should come down, the same opportunity will serve for them. Captain Anderson may be informed that they are for Mr. Norton. If they can be got without too much trouble, I should be glad of succeeding, as he will rely on my promise to procure them for him.

Having nothing to add under the head of news, I subscribe myself your dutiful son.

TO COLONEL JAMES MADISON.

PHILADELPHIA, March 20, 1780.

HONORED SIR,— \* \* \* \* \*

The extreme badness of the roads and frequency of rains rendered my journey so slow that I did not reach this place till Saturday last. The only public intelligence I have to communicate, is that the great and progressive depreciation of the paper currency had introduced such disorder and perplexity into public affairs, for the present, and threatened to load the United States with such an intolerable burden of debt, that Congress have thought it expedient to convert the 200,000,000 of dollars now in circulation into a real debt of 5,000,000, by establishing the exchange at 40 for 1; and taxes for calling it in during the ensuing year are to be payable, at the option of the people, in specie or paper, according to that difference. In order to carry on public measures in future, money is to be emitted under the combined faith of Congress and the several States, secured on permanent and specific funds to be provided by the latter. This scheme was finally resolved on on Saturday last. It has not yet been printed, but will be immediately. I shall transmit a copy to you by the first opportunity. The little time I have been here makes it impossible for me to enter into a particular delineation of it. It will probably create great perplexity and complaints in many private transactions. Congress have recommended to the States to repeal their tender laws, and to take measures for preventing injustice as much as possible. It is probable that in the case of loans to the public, the state of depreciation at the time they were made will be the rule of payment; but nothing is yet decided on that point.

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TO EDMUND PENDLETON.

PHILADELPHIA, October 3, 1780.

DEAR SIR,—I had the pleasure of receiving yours of the 25th ult. yesterday, and am sorry it is not yet in my power to grat-

ify your hopes with any prospect of a successful issue to this campaign. The reports of the approach or arrival of a French fleet continue to be circulated, and to prove groundless. If any foreign operations are undertaken on the continent, it will probably be against the Floridas by the Spaniards. A Spanish gentleman, who resides in this city, has received information from the Governor of Cuba that an armament would pass from the Havannah to Pensacola towards the end of last month, and that ten or twelve ships of the line, and as many thousand troops, would soon be in readiness for an expedition against St. Augustine. It would be much more for the credit of that nation, as well as for the common good, if instead of wasting their time and resources in these separate and unimportant enterprises, they would join heartily with the French in attacking the enemy, where success would produce the desired effect.

The enclosed papers contain all the particulars which have been received concerning the apostacy and plot of Arnold. A variety of his iniquitous jobs prior to this *chef d'œuvre* of his villainy, carried on under cover of his military authority, have been detected among his papers, and involve a number of persons both within and without the enemy's lines. The embarkation lately going on at New York, and given out to be destined for Virginia or Rhode Island, was pretty certainly a part of the plot against West Point; although the first representation of it has not yet been officially contradicted.

With sincere regard, I am, Dr sir, your obt and humble servant.

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TO THE HONBLE EDMUND PENDLETON.

PHILADELPHIA, October 10, 1780.

DEAR SIR,—Your favor of the 1st instant came safe to hand yesterday. The enclosed was sent to Mr. Pendleton, who is still in town.

All we know of the several fleets in the American seas, is that Rodney with a few ships is at New York, the remainder having joined Graves and Arbuthnot, whom we know nothing about. Ternay is still at Rhode Island. The main French fleet under Guichen left the West Indies about the time first mentioned, with a large fleet of merchantmen under its convoy, and has not since been heard of. The residue of the French fleet is in the West Indies, but we do not hear of their being any way employed. It is said an English expedition is preparing at Jamaica against some of the Spanish settlements. The Spanish expeditions against the Floridas I believe I mentioned in my last.

We have private accounts, through a channel which has seldom deceived, that a very large embarkation is still going on at New York. I hope Virginia will not be surprised, in case she should be the meditated victim.

André was hung as a spy on the 2d instant. Clinton made a frivolous attempt to save him by pleading the passport granted by Arnold. He submitted to his fate in a manner that showed him to be worthy of a better one. His coadjutor, Smith, will soon follow him. The hero of the plot, although he may for the present escape an ignominious death, must lead an ignominious life, which, if any of his feelings remain, will be a sorer punishment. It is *said* that he is to be made a Brigadier, and employed in some predatory expedition against the Spaniards, in which he may gratify his thirst for gold. It is said with more probability, that his baseness is universally despised by those who have taken advantage of it, and that some degree of resentment is mixed with their contempt, on account of the loss of their darling officer, to which he was accessory.

With sincere regard, I am, dear sir, your obedient, humble servant.

TO HON. EDMUND PENDLETON, CAROLINE COUNTY, VIRGINIA.

PHILADELPHIA, November 14, 1780.

DR SIR,—Your favor of the 6th instant came to hand yesterday. Mr. Griffin, by whom you appear also to have written, has not yet arrived.

It gives me great pleasure to find that the enemy's numbers are so much less formidable than was at first computed; but the information from New York makes it not improbable that the blank in the computation may shortly be filled up. General Washington wrote to Congress on the 4th instant that another embarkation was going on at that place, and in another letter of the 7th he says that, although he had received no further intelligence on the subject, he had reason still to believe that such a measure was in contemplation. Neither the amount nor the object of it, however, had been ascertained.

The inroads of the enemy on the frontier of New York have been distressing and wasteful almost beyond their own example. They have totally laid in ashes a fine settlement called Schoharie, which was capable, General Washington says, of yielding no less than 80,000 bushels of grain for public consumption. Such a loss is inestimable, and is the more to be regretted because both local circumstances and the energy of that Government left little doubt that it would have been applied to public use.

I fancy the taking of Quebec was a mere invention. Your letter gave me the first account of such a report. A different report concerning the second division of the French fleet has sprung up, as you will see by the enclosed paper. It is believed here by many, and some attention given to it by all. It is also said that Rodney has sailed from New York with twenty ships for Europe. If he has sailed at all, and the first report be true also, it is more likely that he has gone out to meet the French.

The late exchange has liberated about one hundred and forty officers and all our privates at New York, amounting to four hundred and seventy-six. General Washington has acceded to a proposal of a further exchange of the convention officers

without attaching any privates to them, which will liberate almost the whole residue of our officers at that place.

I am, sir, with the highest esteem and regard, your obt friend and servt.

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TO THE HON. EDMUND PENDLETON.

PHILADELPHIA, November 21, 1780.

DEAR SIR,—Your favor of the 13th came safe yesterday. The past week has brought forth very little of consequence, except the disagreeable and, I fear, certain information of the arrival of the Cape fleet. Our last account of the embarkation at New York was that the ships had fallen down to the Hook, that the number of troops was quite unknown, as well as their destination, except that in general it was southwardly. It is still said that Philips is to command this detachment. If the projected junction between Leslie and Cornwallis had not been so opportunely frustrated by the gallant volunteers at King's Mountain, it is probable that Philips would have reinforced the former, as the great force in his rear would otherwise have rendered every advance hazardous.

At present, it seems more likely that the declining state of their Southern affairs will call their attention to that quarter. They can, it is well known, regain at any time their present footing in Virginia, if it should be thought expedient to abandon it, or to collect in their forces to a defensible point; but every retrograde step they take towards Charlestown proves fatal to their general plan. Mr. J. Adams, in a letter of the 23d of August, from Amsterdam, received yesterday, says that General Prevost had sailed from England with a few frigates for Cape Fear, in order to facilitate the operations of their arms in North Carolina, and that the Ministry were determined to make the Southern States the scene of a very active winter campaign. No intimation is given by Mr. Adams of the number of troops under General Prevost. The second division of

the French fleet mentioned in my last to have been off Bermudas has not yet made its appearance. It is now either [?] supposed to have been a British one.

The death of General Woodford is announced in a New York paper of the 17th. I have not seen the paper, but am told that no particulars are mentioned. I suppose it will reach his friends before this will be received, through some other channel.

Adieu.

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TO THE HON. EDMUND PENDLETON.

PHILADELPHIA, December 5, 1780.

DEAR SIR,—I have your favor of the 27th ult., and congratulate you on the deliverance of our country from the distresses of actual invasion. The spirit it has shewn on this occasion will, I hope, in some degree protect it from a second visit.

Congress yesterday received letters from Mr. Jay and Mr. Carmichael, as late as the 4th and 9th of September. The general tenor of them is that we are not to rely on much aid in the article of cash from Spain, her finances and credit being scarcely adequate to her own necessities, and that the British emissaries are indefatigable in misrepresenting our affairs in that kingdom, and in endeavoring to detach it from the war. The character, however, of the Catholic King for steadiness and probity, and the entire confidence of our allies in him, forbid any distrust on our part. Portugal, on the pressing remonstrances of France and Spain, has at length agreed to shut her ports against English prizes, but still refuses to accede to the armed neutrality. Mr. Adams writes that the news of the fate of the Quebec and Jamaica fleets arrived at London nearly about the same time, and had a very serious effect on all ranks, as well as on stocks and insurance.

Our information from the West Indies gives a melancholy

picture of the effects of the late tempest. Martinique has suffered very considerably, both in shipping and people. Not less than six hundred houses have been destroyed in St. Vincent's. The Spaniards in Cuba, also, have not escaped, and it is *reported* that the fleet on its way from the Havannah to Pensacola has been so disabled and dispersed as to defeat the expedition for the present. On the other side, our enemies have suffered severely. The Ajax, a ship of the line, and two frigates stationed off St. Lucie, to intercept the Martinique trade, are certainly lost, with the greatest part, if not the whole, of their crews; and there is great reason to believe that several other capital ships that have not been since heard of have shared the like fate. The island of St. Lucie is totally defaced. In Barbadoes, also, scarce a house remains entire, and one thousand five hundred persons at least have perished. One of the largest towns in Jamaica has been totally swept away, and the island otherwise much damaged. The consequences of this calamity must afford a striking proof to Great Britain of her folly in shutting our ports against her West India commerce, and transferring the advantage of our friendship to her enemies.

I am, Dr sir, yours sincerely.

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TO THE HON. EDMUND PENDLETON.

PHILADELPHIA, December, 1780.

DEAR SIR,—I had the pleasure of yours of the 2d instant yesterday. We have not heard a word of the fleet which lately left the Chesapeake. There is little doubt that the whole of it has gone to the southward.

Our intelligence from Europe confirms the accession of Portugal to the neutral league, so far at least as to exclude the English from the privileges which their vessels of war have hitherto enjoyed in her ports. The Ariel, commanded by P. Jones, which had on board the clothing, &c., which has been long expected from France, was dismasted a few days after she



sailed, and obliged to return into port; an event which must prolong the sufferings which our army has been exposed to from the delay of this supply.

Mr. Sartine, the Minister of the French Marine, has been lately removed from the administration of that department. His successor is the Marquis de Castries, who is held out to us as a man of greater activity, and from whom we may hope for more effectual co-operation.

An Irish paper informs us that Mr. Laurens was committed to the Tower on the 6th of October, by the three Secretaries of State, on suspicion of high treason. As the warrant, with the names of the Secretaries subscribed, (with some other particulars,) is inserted, no hope remains of the fact being a forgery.

With very sincere regard, I am, Dr sir, your obt sert.

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TO THE HON. EDMUND PENDLETON.

PHILADELPHIA, January 23, 1781.

DEAR SIR,—I have nothing new this week for you but two *reports*; the first is, that very great discontents prevail in New York among the German troops, for causes pretty similar to those which produced the eruption in the Pennsylvania line. It is further said on this head, that a body of two hundred have deserted from Long Island and gone to Rhode Island. The other report is, that the British minister either has or proposes to carry a bill into Parliament authorizing the commanding officer in America to permit and promote a trade with us in British goods of every kind, except linens and woollens. This change of system is said to be the advice of some notable refugees, with a view to revive an intercourse as far as possible between the two countries, and particularly to check the habit that is taking place in the consumption of French manufactures. Whatever their public views may be, it is certain that such a plan would open fine prospects to them in a private view.

We have received no fresh or certain information of the

designs of F. and Spain in assembling so great a force at Cadiz. There does not appear to be any object in that quarter except Gibraltar. Should the attempts be renewed against that place, it will prove that the former has not that absolute sway in the cabinet of the latter which has been generally imagined. Nothing would have prevailed on the French to recall their fleet from the islands at the time they did, but the necessity of humoring Spain on the subject of her hobby-horse.

I am glad to hear that Arnold has been at last fired at. It sounded a little unfavorably for us in the ears of people here that he was likely to get off without that proof of a hostile reception. If he ventures an irruption in any other quarter, I hope he will be made sensible that his impunity on James river was owing to the suddenness of his appearance, and not to the want of spirit in the people.

I am, Dr sir, yours sincerely.

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TO HON. EDMUND PENDLETON.

PHILADELPHIA, Febry, 1781.

DR SIR,—I have your favor of the 5th instant by the post. Col. Harrison arrived here yesterday, and as he mentions no circumstance which indicated an intended departure of the enemy, I am afraid your intelligence on that subject was not well founded. Immediately on the receipt of your former letter, relating to an exchange of C. Taylor, I applied to the Admiralty Department, and if such a step can be brought about with propriety, I hope he will be gratified; but considering the tenor of their treatment of naval prisoners, and the resolutions with which it has inspired Congress, I do not think it probable that exchanges will go on easily; and if this were less the case, a mere passenger, under the indulgence, too, of a parole, can scarcely hope to be preferred to such as are suffering the utmost hardships, and even made prisoners in public service.

A vessel arrived here a few days ago from Cadiz, which

brings letters of as late date as the last of December. Those that are official tell us that England is making the most strenuous exertions for the current year, and that she is likely to be but too successful in the great article of money. The Parliament have voted 32,000 seamen; and a considerable land reinforcement for their southern army in America is also said to be in preparation.

Private letters by the same conveyance mention that the blockade of Gibraltar is going on with alacrity, and that the garrison is in such distress as flatters the hope of a speedy capitulation.

If Mr. Pendleton, your nephew, is still with you, be pleased to return him my compliments.

With great respect, I am, Dr sir, your obedient servant.

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TO EDMUND RANDOLPH.

(*Extract.*)

PHILADELPHIA, May 1, 1781.

DEAR SIR,—A letter which I received a few days ago from Mr. Jefferson gives me a hope that he will lend his succor in defending the title of Virginia. He professes ignorance of the ground on which the report of the committee places the controversy. I have exhorted him not to drop his purpose, and referred him to you as a source of copious information on the subject. I wish much you and he could unite your ideas on it. Since you left us I have picked up several pamphlets which had escaped our researches. Among them are the examination of the Connecticut claim, and the charter of Georgia, bound up with that of Maryland and four others. Presuming that a better use will be made of them, I will send them by Mr. Jones, requesting, however, that they may be returned by the hands of him, Doctor Lee, or yourself, as the case may be.

TO PHILIP MAZZEI.

PHILADELPHIA, July 7, 1781.

MY DEAR FRIEND,—I have received two copies of your favor of the 7th of December last, and three of that of the 30th of November preceeding. Having neglected to bring with me from Virginia the cypher concerted between you and the Executive, I still remain ignorant of the paragraph in your last which I suppose the best worth knowing.

The state of our affairs has undergone so many vicissitudes since you embarked for Europe, and I can so little judge how far you may have had intelligence of them, that I am at a loss where I ought to begin my narrative. As the present posture of them is the most interesting, I shall aim at nothing further at present than to give you some idea of that, referring to past events so far only as may be necessary to explain it.

The insuperable difficulties which opposed a general conquest of America seemed as early as the year 1779 to have been felt by the enemy, and to have led them into the scheme of directing their operations and views against the Southern States only. Clinton accordingly removed with the principal part of his force from New York to South Carolina, and laid siege to Charleston, which, after an honorable resistance, was compelled to surrender to a superiority of force. Our loss in men, besides the inhabitants of the town, was not less than two thousand. Clinton returned to New York. Cornwallis was left with about five thousand troops to pursue his conquests. General Gates was appointed to the command of the Southern department, in place of Lincoln, who commanded in Charleston at the time of its capitulation. He met Cornwallis on the 16th of August, 1780, near Camden, in the upper part of South Carolina and on the border of North Carolina. A general action ensued, in which the American troops were defeated with considerable loss, though not without making the enemy pay a good price for their victory. Cornwallis continued his progress into North Carolina, but afterwards retreated to Camden. The defeat of Gates was followed by so general a clamor

against him, that it was judged expedient to recall him. Greene was sent to succeed in the command. About the time of his arrival at the army, Cornwallis, having been reinforced from New York, resumed his enterprise into North Carolina. A detachment of his best troops was totally defeated by Morgan with an inferior number, and consisting of a major part of militia detached from Greene's army. Five hundred were made prisoners, between two and three hundred killed and wounded, and about the like number escaped. This disaster, instead of checking the ardor of Cornwallis, afforded a new incentive to a rapid advance, in the hope of recovering his prisoners. The vigilance and activity, however, of Morgan, secured them. Cornwallis continued his pursuit as far as the Dan river, which divides North Carolina from Virginia. Greene, whose inferior force obliged him to recede this far before the enemy, received such succors of militia on his entering Virginia that the chase was reversed. Cornwallis, in his turn, retreated precipitately. Greene overtook him on his way to Wilmington, and attacked him. Although the ground was lost on our side, the British army was so much weakened by the loss of five or six hundred of their best troops, that their retreat towards Wilmington suffered little interruption. Greene pursued as long as any chance of reaching his prey remained, and then, leaving Cornwallis on his left, took an oblique direction towards Camden, which, with all the other posts in South Carolina except Charleston and Ninety-Six, have, in consequence, fallen again into our possession. His army lay before the latter when we last heard from him. It contained seven or eight hundred men and large quantities of stores. It is nearly two hundred miles from Charleston, and, without some untoward accident, cannot fail of being taken. Greene has detachments all over South Carolina, some of them within a little distance of Charleston; and the resentments of the people against their late insolent masters ensure him all the aids they can give in re-establishing the American Government there. Great progress is also making in the redemption of Georgia.

As soon as Cornwallis had refreshed his troops at Wilming-

ton, abandoning his Southern conquests to their fate, he pushed forward into Virginia. The parricide Arnold had a detachment at Portsmouth when he lay on the Dan; Philips had reinforced him so powerfully from New York, that the junction of the two armies at Petersburg could not be prevented. The whole force amounted to about six thousand men. The force under the Marquis De La Fayette, who commanded in Virginia, being greatly inferior, did not oppose them, but retreated into Orange and Culpeper in order to meet General Wayne, who was on his way from Pennsylvania to join him. Cornwallis advanced northward as far as Chesterfield, in the county of Caroline, having parties at the same time at Page's warehouse and other places in its vicinity. A party of horse, commanded by Tarleton, was sent with all the secrecy and celerity possible to surprise and take the General Assembly and Executive who had retreated from Richmond to Charlottesville. The vigilance of a young gentleman who discovered the design and rode express to Charlottesville prevented a complete surprise. As it was, several Delegates were caught, and the rest were within an hour of sharing the same fate. Among the captives was Colonel Lyon of Hanover. Mr. Kinlock, a member of Congress from South Carolina, was also caught at Mr. John Walker's, whose daughter he had married some time before. Governor Jefferson had a very narrow escape. The members of the Government rendezvoused at Stanton, where they soon made a House. Mr. Jefferson's year having expired, he declined a re-election, and General Nelson has taken his place. Tarleton's party retreated with as much celerity as it had advanced. On the junction of Wayne with the Marquis and the arrival of militia, the latter faced about and advanced rapidly on Cornwallis, who retreated to Richmond, and thence precipitately to Williamsburg, where he lay on the 27th ultimo. The Marquis pursued, and was at the same time within twenty miles of that place. One of his advanced parties had had a successful skirmish within six miles of Williamsburg. Bellini has, I understand, abided patiently in the college the dangers and inconveniences of such a situation. I do not hear that the consequences

have condemned the experiment. Such is the present state of the war in the Southern Department. In the Northern, the operations have been for a considerable time in a manner suspended. At present, a vigorous siege of New York by General Washington's army, aided by five or six thousand French troops under Count De Rochambeau, is in contemplation, and will soon commence. As the English have the command of the water, the result of such an enterprise must be very uncertain. It is supposed, however, that it will certainly oblige the enemy to withdraw their force from the Southern States, which may be a more convenient mode of relieving them than by marching the troops from New York at this season of the year to the southward. On the whole, the probable conclusion of this campaign is, at this juncture, very flattering, the enemy being on the defensive in every quarter.

The vicissitudes which our finances have undergone are as great as those of the war, the depreciation of the old continental bills having arrived at forty, fifty, and sixty for one. Congress, on the 18th of March, 1780, resolved to displace them entirely from circulation, and substitute another currency, to be issued on better funds, and redeemable at a shorter period. For this purpose, they fixed the relative value of paper and specie at forty for one; directed the States to sink by taxes the whole two hundred millions in one year, and to provide proper funds for sinking in six years a new currency which was not to exceed ten millions of dollars, which was redeemable within that period, and to bear an interest of five per cent., payable in bills of exchange on Europe or hard money. The loan-office certificates granted by Congress are to be discharged at the value of the money at the time of the loan; a scale of depreciation being fixed by Congress for that purpose. This scheme has not yet been carried into full execution. The old bills are still unredeemed, in part, in some of the States, where they have depreciated to two, three, and four hundred for one. The new bills, which were to be issued only as the old ones were taken in, are consequently in a great degree still unissued; and the depreciation which they have already suffered has determined

Congress and the States to issue as few more of them as possible. We seem to have pursued our paper projects as far as prudence will warrant. Our medium in future will be principally specie. The States are already levying taxes in it. As the paper disappears, the hard money comes forward into circulation. This revolution will also be greatly facilitated by the influx of Spanish dollars from the Havannah, where the Spanish forces employed against the Floridas\* consume immense quantities of our flour, and remit their dollars in payment. We also receive considerable assistance from the direct aids of our ally, and from the money expended among us by his auxiliary troops. These advantages, as they have been and are likely to be improved by the skill of Mr. Robert Morris, whom we have constituted minister of our finances, afford a more flattering prospect in this department of our affairs than has existed at any period of the war.

The great advantage the enemy have over us lies in the superiority of their navy, which enables them continually to shift the war into defenceless places, and to weary out our troops by long marches. The squadron sent by our ally to our support did not arrive till a reinforcement on the part of the enemy had counteracted their views. They have been almost constantly blocked up at Rhode Island by the British fleet. The effects of a hurricane in the last spring on the latter gave a temporary advantage to the former, but circumstances delayed the improvement of it till the critical season was past. Mr. Destouches, who commanded the French fleet, nevertheless hazarded an expedition into Chesapeake bay. The object of it was to co-operate with the Marquis de la Fayette in an attack against Arnold, who lay at Portsmouth with about fifteen hundred British troops. Had he got into the bay, and taken a favorable station, the event would certainly have been adequate to our hopes. Unfortunately, the British fleet, which followed the French immediately from Rhode Island, reached the capes of Virginia first. On the arrival of the latter, a regular and

\* They have lately taken West Florida with a garrison of 1,500 troops.



fair combat took place. It lasted for several hours, and ended rather in favor of our allies. As the enemy, however, were nearest the capes, and one of the French ships had lost her rudder, and was otherwise much damaged, the commander thought it best to relinquish his object, and return to his former station. The damage sustained by the enemy, according to their own representation, exceeded that of the French; and as their number of ships and weight of metal were both superior, it does great honor to the gallantry and good conduct of Mr. Destouches. Congress, and indeed the public at large, were so sensible of this, that their particular thanks were given him on the occasion.

No description can give you an adequate idea of the barbarity with which the enemy have conducted the war in the Southern States. Every outrage which humanity could suffer has been committed by them. Desolation rather than conquest seems to have been their object. They have acted more like desperate bands of robbers or buccaneers than like a nation making war for dominion. Negroes, horses, tobacco, &c., not the standards and arms of their antagonists, are the trophies which display their success. Rapes, murders, and the whole catalogue of individual cruelties, not protection and the distribution of justice, are the acts which characterize the sphere of their usurped jurisdiction. The advantage we derive from such proceedings would, if it were purchased on other terms than the distresses of our citizens, fully compensate for the injury accruing to the public. They are a daily lesson to the people of the United States of the necessity of perseverance in the contest; and wherever the pressure of their local tyranny is removed, the subjects of it rise up as one man to avenge their wrongs and prevent a repetition of them. Those who have possessed a latent partiality for them, as their resentment is embittered by their disappointment, generally feel most sensibly their injuries and insults, and are the foremost in retaliating them. It is much to be regretted that these things are so little known in Europe. Were they published to the world in their true colors, the British nation would be hated by all nations as much

as they have heretofore been feared by any, and all nations would be sensible of the policy of abridging a power which nothing else can prevent the abuse of.

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TO COL. JAMES MADISON.

PHILADELPHIA, August 1, 1781.

We have heard little of late from Europe, except that the mediation proffered by Russia in the dispute between England and Holland has been referred by the former to the general pacification, in which the mediation of the Emperor will be joined with that of Russia. As this step is not very respectful to Russia, it can only proceed from a distrust of her friendship, and the hopes entertained by Britain as to the issue of the campaign, which, as you will see in an intercepted letter from Germaine to Clinton, were extravagantly sanguine. We have no late intelligence from the West Indies. General Washington is going on with his preparations and operations against New York. What the result will be can be decided by time alone. We hope they will at least withdraw some of the invaders from Virginia. The French fleet is still at Rhode Island. The British, *it is reported*, has lately left the Hook.

*August 2.*—Information has been received from New York, through a channel which is thought a good one, that orders are gone to Virginia for a large part of the troops under Cornwallis immediately to sail for that place. Should this be well founded, the execution of the orders will announce it to you. Among other advantages attending an evacuation of Virginia, it will not be the least that the communication with this place by the bay will supply the State with many necessary articles which are now transported by land at so much expense, and will enable you to pay for them easier by raising the price of your commodities. It gives me pain to hear that so many of the people have incautiously sold, or rather given away, their tobacco to speculators, when it was in no danger from the enemy. The destruction of that article, which alarmed them,

was an obvious cause of its future rise, and a reason for their retaining it till the alarm should be over. Goods of all kinds, particularly dry goods, are rising here already. Salt, in particular, has risen within a few days from two dollars to a guinea per bushel.

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TO THE HON. EDMUND PENDLETON.

PHILA. September 18. 1781.

DEAR SIR,—I was yesterday favored with yours of the 10th instant. The various reports arrived of late from the Chesapeake prepared us for a confirmation from our correspondents of a fortunate rencontre between the two fleets. A continuation of these reports, although unsupported by any authentic evidence, still keeps up the public anxiety. We have not heard a word of De Banes. The arrival of Digby is far from being certain, and the circulating reports have reduced his force to six ships of the line. The preparations at New York for some movement are pretty well attested. The conjectures of many are directing it against this city, as the most practicable and important object within the reach of Clinton. The successful blow struck by the parricide Arnold against the town of New London is described, as far as the particulars are known here, in the enclosed Gazette. There have been several arrivals of late from Europe with very little intelligence of any kind, and with none from official sources. It all relates to the junction of the French and Spanish fleets, for the purpose of renewing the investiture of Gibraltar, and enterprising something against Minorca. Thus the selfish projects of Spain not only withhold from us the co-operation of their armaments, but divert in part that of our allies; and yet we are to reward her with a cession of what constitutes *the value* of the finest part of America.

General Washington and the Count de Rochambeau, with the forces under them, have, I presume, by this time, got within Virginia. This revolution in our military plan cannot fail to produce great advantages to the Southern department, and par-

ticularly to Virginia, even if the immediate object of it should be unexpectedly frustrated. The presence of the Commander-in-chief, with the proportion of our force which will always attend him, will better protect the country against the depredations of the enemy, although he should be followed by troops from New York which would otherwise remain there, than it has hitherto been; will leave the militia more at leisure to pursue their occupations, at the same time that the demands of the armies will afford a sure market for the surplus provisions of the country; will diffuse among them a share of the gold and silver of our ally, and, I may now say, of our own, of which their Northern brethren have hitherto had a monopoly, which will be peculiarly grateful to them after having been so long gorged with depreciating paper; and as we may suppose that the ships of our ally allotted for our service will, so long as his troops remain in the United States, be kept in the Chesapeake, it will revive the trade through that channel, reduce the price of imported necessaries, and raise the staple of the country once more to its proper value.

I am, Dr Sir, your sincere friend, and obt servt.

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TO THE HON. EDMUND PENDLETON.

PHILA, October 2, 1781.

DEAR SIR,—Yours of 24th ultimo came safe by yesterday's post. In addition to the paper of this day, I enclose you two of the preceding week, in one of which you will find a very entertaining and interesting speech of Mr. Fox, and in the other, a handsome forensic discussion of a case important in itself, and which has some relation to the State of Virginia.

Our intelligence from N. York through several channels confirms the sufferings of the British fleet from their rash visit to the capes of the Chesapeake. The troops which were kept in transports to await that event have, since the return of the fleet, been put on shore on Staten Island. This circumstance

has been construed into a preliminary to an expedition to this city, which had revived, till within a few days, the preparations for a militia opposition, but is better explained by the raging of a malignant fever in the city of N. York. Digby, we hear, is now certainly arrived, but with three ships of the line only. It is given out that three men with a large number of transports came with him, and that they only lay back till it was known whether they could proceed to N. Y. with safety. This is not improbably suspected to be a trick to palliate the disappointment and to buoy up the sinking hopes of their adherents, the most staunch of whom give up Lord Cornwallis as irretrievably lost.

We have received some communications from Europe relative to the general state of its affairs. They all centre in three important points. The first is the obstinacy of Great Britain; the second, the fidelity of our ally; and the third, the absolute necessity of vigorous and systematic preparations for war on our part, in order to insure a speedy, as well as favorable peace. The wisdom of the Legislature of Virginia will, I flatter myself, not only prevent an illusion from the present brilliant prospects, but take advantage of the military ardor and sanguine hopes of the people to recruit their line for the war. The introduction of specie will also, I hope, be made subservient to some salutary operations in their finances. Another great object, which, in my opinion, claims an immediate attention from them, is some liberal provision for extending the benefits of government to the distant parts of the State. I am not able to see why this cannot be done so as fully to satisfy the exigencies of the people, and at the same time preserve the idea of unity in the State. Any plan which divides in any manner the sovereignty may be dangerous, and precipitate an evil which ought, and may at least, be long procrastinated. The administration of justice, which is the capital branch, may certainly be diffused sufficiently, and kept in due subordination in every part to one supreme tribunal. Separate boards for crediting [auditing?] accounts may also be admitted with safety and propriety. The same as to a separate depository for the taxes, &c., and as

to a land office. The military powers of the Executive may well be intrusted to militia officers of rank, as far as the defence of the country and the custody of military stores make it necessary. A complete organization of the militia, in which general officers would be erected, would greatly facilitate this part of the plan. Such an one, with a council of field officers, might exercise, without encroaching on the constitutional powers of the supreme Executive, all the powers over the militia which any emergency could demand.

I am, Dr Sir, yours sincerely.

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TO THE HON. EDMUND PENDLETON.

PHILA. Oct. 9. 1781.

DEAR SIR,—Having sent you the arguments on one side of the judiciary question relating to the property of Virginia seized by Mr. Nathan, it is but reasonable that you should see what was contended on the other side. With this view, although I in some measure usurp the task of Mr. Jones, I enclose the paper of Wednesday last. As it may escape Mr. Jones, I also enclose a copy of Mr. Adams's memorial to the States general. I wish I could have informed you of its being lodged in the archives of their High Mightinesses instead of presenting it to you in print.

I am, Dr Sir, ys affectionately.

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TO THE HON. EDMUND PENDLETON.

(*In answer to Mr. P's, 8th Oct.*)

PHILA. Oct. 16th. 1781.

DEAR SIR,—When you get a sight of the resolution of the General Assembly, referred to in your favor of the 8th, you will readily judge from the tenor of it what steps would be taken by the Delegates. It necessarily submitted the fate of

the object in question to the discretion and prospects of the gentleman whom reports, it seems, have arraigned to you, but who, I am bound in justice to testify, has entirely supported the character which he formerly held with you.\* I am somewhat surprised that you never had before known of the Resolution just mentioned, especially as, what is indeed much more surprising, it was both debated and passed with open doors and a full gallery. This circumstance alone must have defeated any reservations attached to it.

The N. York papers and the intelligence from thence make it evident that they have no hope of relieving Cornwallis, unless it can be effected by some desperate naval experiment, and that such an one will be made. Their force will probably amount to twenty-six sail of the line, and if we are not misinformed as to the late arrival of three ships of the line, to twenty-nine sail. The superiority still remaining on the part of our allies, and the repeated proofs given of their skill and bravery on the water, forbid any apprehension of danger. At the same time, we cannot help calculating that every addition to the British force proportionally diminishes the certainty of success. A fleet of provisions amounting to about ——— sail, convoyed by a forty-four and two frigates, have arrived at N. Y. within the week past.

Having sent all the papers containing the proceedings on the case of Mr. N. against Virga, as they came out, I shall, to complete your view of it, add the last effort in his favor published in the enclosed No. of the Freeman's Journal. I am told, however, that the publisher ought to have subjoined that the Privy Council interposed, and directed restitution of the King of Spain's effects.

I am, Dr Sir, yrs affly.

\* Mr. Jay, Minister to Spain.

TO THE HON. EDMUND PENDLETON.

PHILA. Nov. 27th, 1781.

DEAR SIR,—Your favor of the 19th inst. came to hand yesterday. On the same evening arrived our illustrious general, returning to his position on the North river. We shall probably, however, have his company here for some days at least, where he will be able to give Congress very seasonable aid in settling the military establishment for the next year, about which there is some diversity of opinion. Whatever the total requisition of men may be on the States, I cannot but wish that Virginia may take effectual measures for bringing into the field her proportion of men. One reason for this wish is the calumnies which her enemies ground on her present deficiency; but the principal one is the influence that such an exertion may have in preventing insults and aggressions, from whatever quarter they may be meditated, by shewing that we are able to defy them.

The Delegates have lately transmitted to the Governor, for the Assembly, all the proceedings which have taken place on the subject of the Territorial cessions. The tenor of them, and the reception given them by the Assembly, will, I doubt not, be communicated to you by some of your correspondents in it.

There is pretty good reason to believe that a descent on Minorca has actually taken place. It is a little problematical with me whether successes against Great Britain in any other quarter except America tend much to hasten a peace. If they increase her general distress, they at the same time increase those demands against her which are likely to impede negotiations, and her hopes from the sympathy of other powers. They are favorable to us, however, in making it more the interest of all the belligerent powers to reject the *uti possidetis* as the basis of a pacification.

The report of Rodney's capture never deserved the attention, it seems, which was given to it.

I am, Dr Sir, yrs sincerely.



TO THE HON. EDMUND PENDLETON.

PHILA., Dec. 11th, 1781.

DR SIR,—I am favored with yours of the 3d instant. Other letters by the same conveyance confirm your report of the election of Mr. Harrison to the chief magistracy. Several other appointments are mentioned which I make no doubt are all well known to you.

On whichever side Mr. Deane's letters are viewed, they present mysteries. Whether they be supposed genuine or spurious, or a mixture of both, difficulties which cannot well be answered may be started. There are, however, passages in some of them which can scarcely be imputed to any other hand. But it is unnecessary to rely on these publications for the real character of the man. There is evidence of his obliquity which has for a considerable time been conclusive.

Congress have not resumed their proceedings on the Western business. They have agreed on a requisition on the States for 8,000,000 of dollars, and a completion of their lines according to the last establishment of the army. We endeavored, though with very little effect, to obtain deductions in the first article from the quota of Virginia, but we did not oppose the aggregate of the demand in either. If we do not obtain a sufficiency of men and money from the States by regular and duly-appointed calls, we know by experience that the burden of the war will fall on the resources of the States which happen to be the subject of it.

Mr. Moore, late Vice President, has been elected President of this State in place of Mr. Reed, whose period of eligibility was out.

I am, dr sir, yours.

TO THE HON. EDMUND PENDLETON.

PHILA, Dec. 25th, 1781.

DEAR SIR.—You only do me justice in ascribing your disappointment in the part of the week preceeding your favor of the 16th instant to some other cause than my neglect. If I were less disposed to punctuality, your example would preserve me from transgressing it. As the last letter went to the post-office here, and you did not receive it from the post in Virginia, the delinquency must have happened in that line. It is, however, I believe, of little consequence, as I do not recollect that anything material has been contained in my letters for several weeks, any more than there will be in this, in which I have little else to say than to tender you the compliments of the day. Perhaps, indeed, it will be new to you what appeared here in a paper several days ago, that the success of Commodore Johnstone in taking five Dutch East Indiamen, homeward bound, and destroying a sixth, is confirmed. Whatever may be thought of this stroke of fortune by him and his rapacious crew, the Ministry will hardly think it a compensation to the public for the danger to which the remains of their possessions in the East will be exposed by the failure of his expedition.

It gives me great pleasure to hear of the honorable acquittal of Mr. Jefferson. I know his abilities, and I think I know his fidelity and zeal for his country so well, that I am persuaded it was a just one. We are impatient to know whether he will undertake the new service to which he is called.

I am, D<sup>r</sup> Sir, yrs affectionately.

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TO JAMES MADISON, ESQ.

Feb. 12th, 1782.

HON<sup>d</sup> SIR,— \* \* \* \*

The disappointment in forwarding the money by Mr. Brownlow has been sorely felt by me, and the more so as the Legisla-

ture has made no provision for the subsistence of the Delegates that can be relied on. I hope some opportunity will soon put it in your power to renew the attempt to transmit it, and that the delay will have made considerable addition to it. Besides the necessity of this supply for the common occasions, I have frequent opportunities here of purchasing many scarce and necessary books at a fourth of the price which, if to be had at all, they will hereafter cost me. If an immediate conveyance does not present itself for the cash, I would recommend that a bill of exchange on some merchant here be got of Mr. Hunter, Mr. Maury, or other respectable merchant, and forwarded by the post. This is a safer method than the first, and I make no doubt is very practicable. I wish, at all events, the trial to be made, and that speedily.

I recollect nothing new which is not contained in some of the late papers.

Present my affectionate regards to all the family. I have not time to add more than that I am,

Your dutiful son.

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TO COL. JAMES MADISON.

PHILADELPHIA, March 30th, 1782.

HON<sup>D</sup> SIR,—The newspapers will give you in general the intelligence we have from Europe. As far as we are enabled to judge of the views of the British Cabinet, the misfortunes of one more campaign, at least, will be necessary to conquer their obstinacy. They are attempting a separate peace with the Dutch, and talk of suspending their offensive war against us, and directing their whole resources against the naval power of France and Spain. If this be their real plan, we may be sure they do mean by it not to abandon their pretensions to the United States, but try another mode for recovering them. During their offensive exertions against our Ally, they can be practising insidious ones against us; and if in the first they should

be successful, and in the latter disappointed, a renewal of a vigorous war upon us will certainly take place. The best security against every artifice and every event will be such military preparations on our part as will be sufficient either to resist or expel them, as the case may require.

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TO JAMES MADISON, ESQ.

PHILADELPHIA, May 20th, 1782.

HON<sup>D</sup> SIR,—Having written a letter and enclosed it with a large collection of newspapers for you, which was to have been carried by Mr. J. Smith, but which I have now put into the hands of Captain Walker, whose return will be quicker, little remains for me to add here.

Our anxiety on account of the West India news, published at New York, is still supported by contradictory reports and conjectures. The account, however, to which Rodney's name is prefixed, renders our apprehensions too strong for our hopes. Rivington has been very bold in several of his spurious publications, and at this conjuncture might venture as far to serve a particular turn as at any. But it is scarcely credible that he would dare or be permitted to sport with so high an official name.

If Mr. Jefferson will be so obliging as to superintend the legal studies of William, I think he cannot do better than prosecute the plan he has adopted. The interruption occasioned by the election\* of Mr. J., although inconvenient in that respect, is by no means a decisive objection against it.

I did not know before that the letters which Mr. Walker was to have carried last fall had met with the fate which it seems they did. I shall be more cautious hereafter. The papers missing in your list were, I presume, for I do not recollect, contained in them.

If Continental money passes here at all, it is in a very small

\* Mr. Jefferson had just been elected to the Legislature of the State from the county of Albemarle.

quantity, at very great discount, and merely to serve particular local and temporary ends.

It has at no time been more difficult for me to fix my probable return to Virginia. At present all my colleagues have left Congress except Colonel Bland, and it is a crisis which calls for a full representation from every State. Anxious as I am to visit my friends, as long as I sustain a public trust I shall feel a principle which is superior to it.

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TO JAMES MADISON, ESQ.

Jan. 1st. 1783.

HON<sup>d</sup> SIR,— \* \* \* \* \*

The negotiations for peace are said to be going on under the late commission to Mr. Oswald, which authorizes him to treat with commissioners from the *thirteen United States*. Mr. Jefferson will depart in a little time, in order to give his aid in case it be in season. The insidiousness and instability of the British Cabinet forbid us to be sanguine, especially as the relief of Gibraltar was posterior to Oswald's commission, and the interests to be adjusted among the belligerent parties are extremely complicated.

I am, with great affection, your dutiful son.

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TO JAMES MADISON, ESQ.

PHILADELPHIA, Feb. 12th, 1783.

HON<sup>d</sup> SIR,— \* \* \* \* \*

I readily suppose, from the reports prevalent here, that some information on the subject of peace will be expected, and I wish it were in my power to gratify you. The truth is, we are in nearly as great uncertainty here as you can be. Every day, almost, brings forth some fresh rumor, but it is so mingled with mercantile speculations that little faith is excited. The most favorable evidence on the side of peace seems to be a material

fall in the price of imported goods; which, considering the sagacity and good intelligence of merchants, is a circumstance by no means to be despised. A little time will probably decide in the case, when I shall follow this with something more satisfactory.

In the mean time, I remain your affectionate son.

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TO THOMAS JEFFERSON, ESQ.

PHILADELPHIA, Feb. 11th, 1783.

DEAR SIR,—Your favor of the 31st of January was safely brought by Mr. Thompson. That of the 7th instant came by yesterday's mail. The anecdote related in the first was new to me,\* and if there were no other key, would sufficiently decipher the implacability of the party triumphed over. In answer to the second, I can only say at this time, that I feel deeply for your situation,† that I approve of the choice you have made among its difficulties, and that every aid which can depend on me shall be exerted to relieve you from them. Before I can take any step with propriety, however, it will be expedient to feel the sentiments of Congress, and to advise with some of my friends. The first point may possibly be brought about by your letter to the Secretary of Foreign Affairs, which I suppose came too late yesterday to be laid before Congress, but which will, no doubt, be handed in this morning.

The time of Congress since you left us has been almost exclusively spent on projects for a valuation of the land, as the federal articles require, and yet I do not find that we have got an inch forward towards the object. The mode of referring the task to the States, which had at first the warmest and most numerous support, seems to be in a manner abandoned, and

\* The anecdote referred to an occurrence between Dr. Franklin and Arthur Lee.

† Untoward detention at Annapolis, whither Mr. Jefferson had gone to embark for Europe as one of the commissioners to treat of peace.

nothing determinate is yet offered on the mode of effecting it without their intervention. The greatest misfortune, perhaps, attending the case is, that a plan of some kind is made an indispensable preliminary to any other essay for the public relief. I much question whether a sufficient number of States will be found in favor of any plan that can be devised, as I am sure that in the present temper of Congress a sufficient number cannot, who will agree to tell their constituents that the law of the Confederation cannot be executed, and to propose an amendment of it.

Congress yesterday received from Mr. Adams several letters dated September, not remarkable for anything unless it be a fresh display of his vanity, and prejudice against the French court, and his venom against Doct. Franklin. Other preparations for the post do not allow me to use more cypher at present.

I have a letter from Randolph dated February 1, confirming the death of his aunt. You are acquainted, no doubt, with the course the estate is to take. He seems disposed, in case he can make a tolerable compromise with his father's creditors, to resign his appointment under the State, and go into the Legislature. His zeal for some Continental arrangement as essential for the public honor and safety forms at least one of his motives, and I have added all the fuel to it in my power.

My neglect to write to you heretofore has proceeded from a hope that a letter would not find you at Baltimore, and no subject has occurred for one of sufficient importance to follow you. You shall henceforward hear from me as often as an occasion presents, until your departure forbids it.

The ladies and gentlemen to whom I communicated your respects return them with equal sincerity, and the former, as well as myself, very affectionately include Miss Patsy in the object of them.

I am, dear sir, your sincere friend.

## TO GENERAL WASHINGTON.

PHILADELPHIA, April 29th, 1783.

SIR,—I have been honored with your Excellency's favor of the 22d instant, bearing testimony to the merits and talents of Mr. McHenry. The character which I had preconceived of this gentleman was precisely that which your representation has confirmed. As Congress have not yet fixed the peace establishment for their foreign affairs, and will not probably fill up vacancies, unless there be some critical urgency, until such an establishment be made, it is uncertain when an opportunity will present itself of taking into consideration the wishes and merits of Mr. McHenry. Should my stay here be protracted till that happens, which I do not at present expect, I shall feel an additional pleasure in promoting the public interest from my knowledge that I at the same time fulfil both your Excellency's public judgment and private inclination.

## TO JAMES MADISON, ESQ.

PHILA., May 27, 1783.

HON<sup>d</sup> SIR,— \* \* \* \*

I have hitherto not been inattentive to the request of Mrs. J., and shall, in consequence of your letter, renew my efforts for the books, which the return of peace renders more likely to be attainable for her. I see few books in the catalogue which you have sent which are worth purchasing, but I will peruse it more carefully, and send you the titles of such as I may select.

I received a letter from Mr. Joseph Chew a few days ago, by which, and the information of Colonel Wadsworth, who brought it and is a friend of his, I find that he is in New York with his family; that they are all well; that he continues as yet to hold a post which supports them comfortably; that although he has enjoyed opportunities of honestly laying up profits, his generosity of temper has prevented it. I cannot learn whether he proposes to remain in this country or not, but am inclined to



think he will go to Canada, where he has some little expectations. He seems to be exceedingly anxious to hear of his friends in Virginia, and I have written as fully to him on the subject as my knowledge would admit. I wish some of his friends on the spot, and particularly yourself, would write to him. Besides the information he would receive, it would be a pleasing proof to him that he still retained a place in their remembrance and regards.

We are without information of late as to the progress of the definitive treaty, and of the bill in the British Parliament for opening trade with the United States. The confusions produced in their counsels by the long suspension of the Ministry seem to put everything to a stand. The paper which I enclose will give you the latest information on that subject.

Y<sup>r</sup> dutiful son.

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TO JAMES MADISON, ESQ.

PHILA., June 5, 1783.

HON<sup>d</sup> SIR,—By the post preceding the last, I answered yours of the 16th, addressing it to the care of Mr. Maury. I was prevented by more necessary writing from enclosing the papers again by the last post, as I had intended. I now supply the omission by two gentlemen going to Fredericksburg. All the news we have received is contained in them, and respects solely the arrangement which is at length made of a British Ministry.

Having sent several copies of the pamphlet of Congress on the subject of revenue, &c., which I suppose will be transcribed in the Virginia gazettes, I shall add nothing on that subject, presuming that you will, through some channel or other, obtain a sight of these proceedings. I enclose a memorandum of the books which I wish you to select from Dr. Hamilton's catalogue.

I shall take care not to disappoint you of the chair which I promised to bring with me. The time of my setting out is as

uncertain as at the date of my last; but it will certainly take place before the Fall.

Remember me affly to my mother and all the family, and be assured that I am, your dutiful son.

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TO EDMUND RANDOLPH.

ORANGE, March 10th, 1784.

MY DEAR FRIEND,—Your favor of the 27th January was safely delivered to me about a fortnight ago, and was received with the greater pleasure, as it promises a continuance of your friendly attention. I am sorry that my situation enables me to stipulate no other return than sincere and thankful acknowledgments.

On my arrival here, which happened early in December, I entered, as soon as the necessary attentions to my friends admitted, on the course of reading which I have long meditated. Coke Littleton, in consequence, and a few others from the same shelf, have been my chief society during the winter. My progress, which in so short a period could not have been great under the most favorable circumstances, has been much retarded by the want of some important books, and still more by that of some living oracle for occasional consultation. But what will be most noxious to my project, I am to incur the interruptions which will result from attendance in the Legislature, if the suffrage of my county should destine me for that service, which I am made to expect will be the case. Among the circumstances which reconcile me to this destination, you need not be assured that the opportunity of being in your neighborhood has its full influence.

I have perused, with both pleasure and edification, your observations on the demand made by the Executive of South Carolina of a citizen of this State. If I were to hazard an opinion after yours, it would be that the respect due to the chief magistracy of a Confederate State, enforced as it is by the Articles of

Union, requires an admission of the fact as it has been represented. If the representation be judged incomplete or ambiguous, explanations may certainly be called for; and if, on a final view of the charge, Virginia should hold it to be not a *casus fœderis*, she will be at liberty to withhold her citizen, (at least upon that ground,) as South Carolina will be to appeal to the tribunal provided for all controversies among the States. Should the law of South Carolina happen to vary from the British law, the most difficult point of discussion, I apprehend, will be, whether the terms "treason," &c., are to be referred to those determinate offences so denominated in the latter code, or to all those to which the policy of the several States may annex the same titles and penalties. Much may be urged, I think, both in favor of and against each of these expositions. The two first of those terms, coupled with "breach of the peace," are used in the 5th article of the Confederation, but in a way that does not clear the ambiguity. The truth, perhaps, in this as in many other instances, is, that if the compilers of the text had severally declared their meanings, these would have been as diverse as the comments which will be made upon it.

Waiving the doctrine of the Confederation, my present view of the subject would admit few exceptions to the propriety of surrendering fugitive offenders. My reasons are these: 1. By the express terms of the Union, the citizens of every State are naturalized within all the others, and being entitled to the same privileges, may with the more justice be subjected to the same penalties. This circumstance materially distinguishes the citizens of the United States from the subjects of other nations not so incorporated. 2. The analogy of the laws throughout the States, and particularly the uniformity of trial by juries of the vicinage, seem to obviate the capital objections against removal to the State where the offence is charged. In the instance of continuous States, a removal of the party accused from one to the other must often be a less grievance than what happens within the same State when the place of residence and the place where the offence is laid are at distant extremities. The transportation to Great Britain seems to have been repro-

bated on very different grounds; it would have deprived the accused of the privilege of trial by jury *of the vicinage*, as well as of the use of his witnesses, and have exposed him to trial in a place where he was not even alledged to have ever made himself obnoxious to it; not to mention the danger of unfairness arising from the circumstances which produced the regulation.

3. Unless citizens of one State transgressing within the pale of another be given up to be punished by the latter, they cannot be punished at all; and it seems to be a common interest of the States that a few hours, or at most a few days, should not be sufficient to gain a sanctuary for the authors of the numerous offences below "high misdemeanors." In a word, experience will shew, if I mistake not, that the relative situation of the United States calls for a "Droit Public" much more minute than that comprised in the federal articles, and which presupposes much greater mutual confidence and amity among the societies which are to obey it, than the law which has grown out of the transactions and intercourse of jealous and hostile nations.

Present my respectful compliments to your amiable lady, and accept the sincerest wishes for your joint happiness of

Your affec<sup>d</sup> friend and obt servt.

P. S. By my Brother who is charged with this, I send Chastellux's work, *De la Félicité Publique*, which you may perhaps find leisure to run through before May; also a notable work of one of the Representatives of the U. S. in Europe.

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TO THOMAS JEFFERSON.

ORANGE, March 16th, 1784.

DEAR SIR,—Your favor of the 20th ult. came duly to hand a few days ago.

I cannot apprehend that any difficulties can ensue in Europe from the involuntary and immaterial delay of the ratification of the peace, or if there should, that any imputations can be de-

vised which will not be repelled by the collective force of the reasons in the intended protest, some of which, singly taken, are unanswerable. As you no doubt had recourse to authorities which I have no opportunity of consulting, I probably err in supposing the right of the Sovereign to reject the act of his plenipotentiary to be more circumscribed than you lay it down. I recollect well that an implied condition is annexed by the usage of nations to a Plenipotentiary Commission, but should not have extended the implication beyond cases where some palpable and material default in the Minister could be alledged by the Sovereign. Waiving some such plea, the language both of the Commission and of reason seems to fix on the latter as clear an engagement to fulfil his *promise* to ratify a treaty, as to fulfil the *promises* of a treaty which he has ratified. In both cases, one would pronounce the obligation equally personal to the Sovereign, and a failure on his part, without some absolving circumstance, equally a breach of faith.

The project of affixing the seal of the United States, by seven States, to an act *which had been just admitted to require nine*, must have stood self-condemned; and though it might have produced a temporary deception abroad, must have been immediately detected at home, and have finally dishonored the federal counsels everywhere. The competency of seven States to a Treaty of Peace has often been a subject of debate in Congress, and has sometimes been admitted into their practice, at least so far as to issue fresh instructions. The reasoning employed in defence of the doctrine has been, "that the cases which require nine States, being exceptions to the general authority of seven States, ought to be taken strictly; that in the enumeration of the powers of Congress in the first clause of article 9 of the Confederation, the power of entering into *treaties and alliances* is contradistinguished from that of determining on *peace and war*, and even separated by the intervening power of sending and receiving ambassadors; that the excepting clause, therefore, in which 'Treaties and alliances' ought to be taken in the same confined sense, and in which the power of determining on peace is omitted, cannot be extended by construction

to the latter power; that under such a construction five States might continue a war which it required nine to commence, though where the object of the war has been obtained, a continuance must in every view be equivalent to a commencement of it, and that the very means provided for preserving a state of peace might thus become the means of preventing its restoration."

The answer to these arguments has been, that the construction of the federal articles which they maintain is a nicety which reason disclaims, and that if it be dangerous on one side to leave it in the breast of five States to protract a war, it is equally necessary on the other to restrain seven States from saddling the Union with any stipulations which they may please to interweave with a Treaty of peace. I was once led by this question to search the files of Congress for such lights as the history of the Confederation might furnish, and on a review now of my papers, I find the evidence from that source to consist of the following circumstances: In Doctor Franklin's "Sketch of Articles of Confederation," laid before Congress on the 21st day of July, 1775, no number beyond a majority is required in any cases. In the plan reported to Congress by the Committee appointed 11th June, 1776, the general enumeration of the powers of Congress in article 18 is expressed in a similar manner with the first clause in the present 9th article, as are the exceptions in a subsequent clause of the 18th article of the report, with the excepting clause as it now stands; and yet in the margin of the Report, and I believe in the same handwriting, there is a "Qu.: If so large a majority is necessary in concluding a Treaty of peace." There are sundry other marginal queries in the report from the same pen.

Hence it would seem that, notwithstanding the preceding discrimination between the powers of "determining on peace" and "entering into Treaties," the latter was meant by the Committee to comprise the former. The next form in which the articles appear is a printed copy of the Report as it had been previously amended, with sundry amendments, erasures, and notes, on the printed copy itself, in the hand of Mr. Thomson. In the printed

text of this paper, Art. 14, the phraseology which defines the general powers of Congress is the same with that in Art. 18 of the manuscript report. In the subsequent clause requiring nine States, the text as printed ran thus: "The United States in Congress assembled shall never engage in a war, nor grant letters of marque and reprisal in time of peace, nor enter into any Treaties or alliances except for peace," the words *except for peace* being erased, but sufficiently legible through the erasure. The fair inference from this passage seems to be: 1. That without those words nine States were held to be required for concluding peace. 2. That an attempt had been made to render seven States competent to such an act, which attempt must have succeeded, either on a preceding discussion in Congress, or in a Committee of the whole, or a special committee. 3. That on fuller deliberation, the power of making Treaties of peace was meant to be left on the same footing with that of making all other Treaties. The remaining papers on the files have no reference to this question.

Another question which several times during my service in Congress exercised their deliberations was, whether seven States could revoke a Commission for a Treaty issued by nine States, at any time before the faith of the Confederacy should be pledged under it. In the instance of a proposition in 1781 to revoke a Commission which had been granted under peculiar circumstances in 1779 to Adams, to form a treaty of commerce with Great Britain, the competency of seven States was resolved on, (by seven States indeed,) and a revocation took place accordingly. It was, however, effected with much difficulty, and some members of the minority even contested the validity of the proceeding. My own opinion then was, and still is, that the proceeding was equally valid and expedient. The circumstances which had given birth to the commission had given place to others totally different; not a single step had been taken under the commission which could affect the honor or faith of the United States, and it surely can never be said that either the letter or spirit of the Confederation requires the same majority to decline as to engage in foreign treaties. The

safest method of guarding against the execution of those great powers, after the circumstances which dictated them have changed, is to limit their duration, trusting to renewals as they expire, if the original reasons continue. My experience of the uncertainty of getting an affirmative vote even of seven States had determined me, before I left Congress, always to contend for such limitations.

I thought the sense of the term "appropriation" had been settled by the latter practice of Congress to be the same as you take it to be. I always understood that to be the true, the parliamentary, and the only rational sense. If no distinction be admitted between the "appropriation of money to general uses" and "expenditures in detail," the Secretary of Congress could not buy quills or wafers without a vote of nine States entered on record, and the Secretary to the Committee of the States could not do it at all. In short, unless one vote of appropriation can extend to a *class* of objects, there must be a physical impossibility of providing for them; and the extent and generality of such classes can only be determined by discretion and convenience. It is observable, that in the specification of the powers which require nine States, the single technical word "appropriate" is retained. In the general recital which precedes, the word "apply" as well as "appropriate" is used.

You were not mistaken in supposing I had in conversation restrained the authority of the federal Court to territorial disputes, but I was egregiously so in the opinion I had formed. Whence I got it I am utterly at a loss to account. It could not be from the Confederation itself, for words could not be more explicit. I detected the error a few days ago in consulting the articles on another subject, and had noted it for my next letter to you.

I am not sure that I comprehend your idea of a cession of the Territory beyond the Kenhaway and on this side the Ohio. As all the *soil* of value has been granted out to individuals, a cession in that view would be improper, and a cession of the *jurisdiction* to Congress can be proper only where the Country



is vacant of settlers. I presume your meaning, therefore, to be no more than a separation of that country from this, and an incorporation of it into the Union; a work to which all three must be parties. I have no reason to believe there will be any repugnance on the part of Virginia.

The effort of Pennsylvania for the Western commerce does credit to her public councils. The commercial genius of this State is too much in its infancy, I fear, to rival the example. Were this less the case, the confusion of its affairs must stifle all enterprize. I shall be better able, however, to judge of the practicability of your hint when I know more of them.

The declension of Georgetown does not surprize me, tho' it gives me regret. If the competition should lie between Trenton and Philadelphia, and depend on the vote of New York, it is not difficult to foresee into which scale it will be thrown, nor the probable effect of such decision on our Southern hopes.

I have long regarded the council as a grave of useful talents, as well as objectionable in point of expence, yet I see not how such a reform as you suggest can be brought about. The Constitution, tho' readily overleaped by the Legislature on the spur of an occasion, would probably be made a bar to such an innovation. It directs that eight members be kept up, and requires the sanction of four to almost every act of the Governor. Is it not to be feared, too, that these little meliorations of the Government may turn the edge of some of the arguments which ought to be laid to its root? I grow every day more and more solicitous to see this essential work begun. Every day's delay settles the Government deeper into the habits of the people, and strengthens the prop which their acquiescence gives it. My field of observation is too small to warrant any conjecture of the public disposition towards the measure; but all with whom I converse lend a ready ear to it. Much will depend on the politics of Mr. Henry, which are wholly unknown to me. Should they be adverse, and G. Mason not in the Assembly, hazardous as delay is, the experiment must be put off to a more auspicious conjuncture.

The charter granted in 1732 to Lord Baltimore makes, if I

mistake not, the *Southern shore* of the Potowmac the boundary of Maryland on that side. The Constitution of Virginia cedes to that State "all the territories contained within its charter, with all the rights of property, *jurisdiction, and Government, and all other rights whatsoever*, which might at any time have been claimed by Virginia, excepting *only the free navigation and use* of the Rivers Potowmac and Pohomoque, &c." Is it not to be apprehended that this language will be construed into an entire relinquishment of the Jurisdiction of these rivers, and will not such a construction be fatal to our port regulations on that side, and otherwise highly inconvenient? I was told on my journey along the Potowmac of several flagrant evasions which had been practiced with impunity and success by foreign vessels which had loaded at Alexandria. The jurisdiction of half the rivers ought to have been expressly reserved. The terms of the surrender are the more extraordinary as the patents of the N. neck place the whole river Potowmac within the Government of Virginia; so that we were armed with a title both of prior and posterior date to that of Maryland. What will be the best course to repair the error?—to extend our laws upon the River, making Maryland the plaintiff if she chooses to contest their authority—to state the case to her at once and propose a settlement by negotiation—or to propose a mutual appointment of Commissioners for the general purpose of preserving a harmony and efficacy in the regulations on both sides? The last mode squares best with my present ideas. It can give no irritation to Maryland; it can weaken no plea of Virginia; it will give Maryland an opportunity of stirring the question if she chooses; and will not be fruitless if Maryland should admit our jurisdiction. If I see the subject in its true light, no time should be lost in fixing the interest of Virginia. The good humour into which the cession of the back lands must have put Maryland forms an apt crisis for any negociations which may be necessary. You will be able, probably, to look into her charter and her laws, and to collect the leading sentiments relative to the matter.

The winter has been so severe that I have never renewed my

call on the library of Monticello, and the time is now drawing so near when I may pass for a while into a different scene, that I shall await at least the return to my studies. Mr. L. Grymes told me a few days ago that a few of your books which had been borrowed by Mr. W. Maury, and ordered by him to be sent to his brother's, the clergyman, on their way to Monticello, were still at the place which Mr. M. removed from. I desired Mr. Grymes to send them to me instead of the Parson, supposing, as the distance is less, the books will probably be sooner out of danger from accidents, and that a conveyance from hence will not be less convenient. I calculated, also, on the use of such of them as may fall within my plan.

I lately got home the trunk which contained my Buffon, but have barely entered upon him. My time begins already to be much less my own than during the winter blockade. I must leave to your discretion the occasional purchase of rare and valuable books, disregarding the risk of duplicates. You know tolerably well the objects of my curiosity. I will only particularize my wish of whatever may throw light on the general constitution and droit publique of the several confederacies which have existed. I observe in Boenand's catalogue several pieces on the Dutch, the German, and the Helvetic. The operations of our own must render all such lights of consequence. Books on the law of N. & N. fall within a similar remark. The tracts of Bynkershoeck, which you mention, I must trouble you to get for me, and in French, if to be had, rather than latin. Should the body of his works come nearly as cheap as these select publications, perhaps it may be worth considering whether the whole would not be preferable. Is not Wolfius also worth having? I recollect to have seen at Pritchard's a copy of Hawkin's abridgement of Co. Litt. I would willingly take it if it be still there, and you have an opportunity. A copy of Deane's letters, which were printed in New York, and which I failed to get before I left Philadelphia, I should also be glad of. I use this freedom in confidence that you will be equally free in consulting your own conveniency whenever I encroach upon it. I hope you will be so, particularly in the request I have to add.

One of my parents would be considerably gratified with a pair of good spectacles, which are not to be got here. The particular readiness of Dudley to serve you inclines me to think that an order from you would be well executed. Will you, therefore, be so good as to get from him one of his best pebble and double-jointed pair, for the age fifty-five, or thereabouts, with a good case, and forward them by the first safe conveyance to me in Orange or at Richmond, as the case may be. If I had thought of this matter before Mr. Maury set out, I might have lessened your trouble. It is not material whether I be repayed at the Bank of Philadelphia or the Treasury of Virginia, but I beg it may be at neither till you are made secure by public remittances. It will be necessary, at any rate, for £20 or 30 to be left in your hands or in the Bank for little expenditures which your kindness is likely to bring upon you.

The Executive of South Carolina, as I am informed by the Attorney, have demanded of Virginia the surrender of a citizen of Virginia, charged on the affidavit of Jonas Beard, Esqr., whom the Executive of South Carolina represent to be "a Justice of the peace, a member of the Legislature, and a valuable, good man," as follows: that "three days before the 25th day of October, 1783, he (Mr. Beard) was violently assaulted by G. H., during the sitting of the Court of General Sessions, without any provocation thereto given, who beat him (Mr. B.) with his fist and switch over the face, head, and mouth, from which beating he was obliged to keep his room until the said 25th day of October, 1783, and call in the assistance of a physician." Such is the case as collected by Mr. Randolph from the letter of the Executive of South Carolina. The questions which arise upon it are: 1. Whether it be a charge of high misdemeanor within the meaning of the fourth Article of Confederation. 2. Whether, in expounding the terms high misdemeanor, the law of South Carolina, or the British law as in force in the United States before the Revolution, ought to be the standard. 3. If it be not a *casus fœderis*, what the law of nations exacts of Virginia? 4. If the law of nations contains no adequate provision for such occurrences, whether the intimacy of the Union among the

States, the relative position of some, and the common interest of all them in guarding against impunity for offences which can be punished only by the jurisdiction within which they are committed, do not call for some supplemental regulations on this subject? Mr. Randolph thinks Virginia not bound to surrender the fugitive until she be convinced of the facts, by more substantial information, and of its amounting to a high misdemeanor, by inspection of the law of South Carolina, which, and not the British law, ought to be the criterion. His reasons are too long to be rehearsed.

I know not, my dear sir, what to reply to the affectionate invitation which closes your letter. I subscribe to the justness of your general reflections; I feel the attractions of the particular situation you point out to me. I cannot altogether renounce the prospect, still less can I as yet embrace it. It is very far from being improbable that a few years more may prepare me for giving such a destiny to my future life, in which case the same or some equally convenient spot may be commanded by a little augmentation of price. But wherever my final lot may fix me, be assured that I shall ever remain, with the sincerest affection and esteem,

Your friend and servant.

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TO THOMAS JEFFERSON.

ORANGE, April 25th, 1784.

DEAR SIR,—Your favor of the 16th of March came to hand a few days before Mazzei called on me. His plan was to have proceeded hence directly to Annapolis. My conversation led him to premise a visit to Mr. Henry, from whence he proposed to repair to Richmond, and close his affairs with the Executive. Contrary to my expectation he returned hither on Thursday last, proposing to continue his circuit through Gloucester, York, and Williamsburg, recommended by Mr. Henry, for obtaining

from the former members of the Council certain facts relating to his appointment, of which the vouchers have been lost. This delay, with the expectation of your adjournment, will probably prevent his visit to Congress. Your letter gave me the first information both of his views towards a Consulate and of his enmity towards Franklin; the first was not betrayed to me by any conversation either before or after I made known to him the determination of Congress to confine such appointments to natives of America.

As to the 2nd, he was unreserved, alleging at the same time that the exquisite cunning of the old Fox has so enveloped his iniquity, that its reality cannot be proved by those who are thoroughly satisfied of it. It is evident, from several circumstances stated by himself, that his enmity has been embittered, if not wholly occasioned, by incidents of a personal nature. Mr. Adams is the only public man whom he thinks favorably of, or seems to have associated with, a circumstance which their mutual characters may perhaps account for. Notwithstanding these sentiments towards Franklin and Adams, his hatred of England remains unabated, and does not exceed his partiality for France, which, with many other considerations which need not be pointed out, persuade me that however dreadful an actual visit from him might be to you in a personal view, it would not produce the public mischiefs you apprehend from it.

By his interview with Mr. Henry, I learn that the present politics of the latter comprehend very friendly views toward the confederacy, a wish tempered with much caution for an amendment of our own constitution, a patronage of the payment of British debts, and of a scheme of general assessment.

The want of both a Thermometer and Barometer had determined me to defer a meteorological diary till I could procure these instruments. Since the receipt of your letter, I have attended to the other columns.

I hope the letter which had not reached you at the date of your last did not altogether miscarry. On the 16th of March I wrote you fully on sundry points. Among others, I suggested to your attention the case of the Potowmac, having in my eye

the river below the head of navigation. It will be well, I think, to sound the ideas of Maryland also, as to the upper parts of the north branch of it. The policy of Baltimore will probably thwart, as far as possible, the opening of it; and without a very favorable construction of the right of Virginia, and even the privilege of using the Maryland Bank, it would seem that the necessary works could not be accomplished.

Will it not be good policy to suspend further Treaties of Commerce till measures shall have taken place in America which may correct the idea in Europe of impotency in the federal Government in matters of Commerce? Has Virginia been seconded by any other State in her proposition for arming Congress with power to frustrate the unfriendly regulations of Great Britain with regard to her West India islands? It is reported here that the late change of her ministers has revived the former liberality which seemed to prevail on that subject. Is the Impost gaining or losing ground among the States? Do any considerable payments come into the Continental Treasury? Does the settlement of the public accounts make any comfortable progress? Has any resolution been taken by Congress touching the old Continental currency? Has Maryland foreborne to take any steps in favour of George Town? Can you tell me whether any question in the Court of Appeals has yet determined whether the war ceased on our coast on the 3d of March or the 3d of April?

The books which I was told were still at the place left by Mr. W. Maury had been sent away at the time Mr. L. Grymes informed me of them.

Mr. Mazzei tells me that a subterraneous city has been discovered in Siberia, which appears to have been once populous and magnificent. Among other curiosities it contains an equestrian statue, around the neck of which was a golden chain 200 feet in length, so exquisitely wrought that Buffon inferred from a specimen of 6 feet, sent him by the Empress of Russia, that no artist in Paris could equal the workmanship. Mr. Mazzei saw the specimen in the hands of Buffon, and heard him give this opinion of it. He heard read at the same time a letter

from the Empress to Buffon, in which she desired the present to be considered as a tribute to the man to whom Natural History was so much indebted. Mr. Faujas de St. Fond thought the city was between 72 and 74 N. L.; the son of Buffon, between 62 and 64°. Mr. M., being on the point of departure, had no opportunity of ascertaining the fact. If you should have had no better account of the discovery, this will not be unacceptable to you, and will lead you to obtain one.

I propose to set off for Richmond towards the end of this week. The election in this county was on thursday last. My colleague is Mr. Charles Porter.

I am, your affect<sup>e</sup> friend.

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TO THOMAS JEFFERSON.

RICHMOND, May 15th, 1784.

DEAR SIR,— \* \* \* \* \*

The arrangement which is to carry you to Europe has been made known to me by Mr. Short, who tells me he means to accompany or follow you. With the many reasons which make this event agreeable, I cannot but mix some regret that your aid towards a revisal of our State Constitution will be removed. I hope, however, for your licence to make use of the ideas you were so good as to confide to me, so far as they may be necessary to forward the object. Whether any experiment will be made this session is uncertain. Several members with whom I have casually conversed give me more encouragement than I had indulged. As Col. Mason remains in private life, the expediency of starting the idea will depend much on the part to be expected from R. H. Lee and Mr. Henry. The former is not yet come to this place, nor can I determine any thing as to his politics on this point. The latter arrived yesterday, and from a short conversation I find him strenuous for invigorating the Federal Government, though without any precise plan, but have got no



explanations from him as to our internal Government. The general train of his thoughts seemed to suggest favorable expectations. We did not make a house till Wednesday last, and have done nothing yet but arrange the committees and receive petitions. The former Speaker was re-elected without opposition. If you will, either before or after your leaving America, point out the channel of communication with you in Europe, I will take the pleasure of supplying you from time to time with our internal transactions, as far as they may deserve your attention; and expect that you will freely command every other service during your absence which it may be in my power to render.

Wishing you every success and happiness, I am, dear sir, your affec<sup>d</sup> friend,

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TO COL. JAMES MADISON.

(Extracts.)

RICHMOND, June 5th, 1784.

\* \* \* \* \*

The House of Delegates have agreed to postpone the June tax till January. It is not improbable that the Senate may require half to be collected at an earlier period.

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*June 15th.*—The Senate have ratified the postponement of the taxes till the last day of January. It is thought by some that an intermediate tax of some kind or other will be essential, but whether any such will take place is uncertain, and perhaps improbable, though we shall make a strange figure, after our declarations with regard to Congress and the Continental debt, if we wholly omit the means of fulfilling them.

\* \* \* \* \*

*June 24th.*—Much time has been lately spent by the Assembly in abortive efforts for an amendment of the Constitution, and fulfilling the Treaty of Peace in the article of British debts.

The residue of the business will not be completed till next week.

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[Notes in the hand-writing of Mr. Madison, of a speech made by him in the House of Delegates of Virginia, at the May session of 1784, in support of a proposition for a Convention to revise the Constitution of the State:]

I. Nature of Constitution exam<sup>d</sup>. See Mass., P. 7, 8, 15, 16; N. Y., P. 63; Penn<sup>a</sup>, P. 85, 86; Del., P. 106; N. C., P. 146, 150; S. C., P. 188; Geo., P. 186.

II. Convention of 1776, without due power from people.

1. Passed ordinance for Constit<sup>n</sup> on recommendation of Cong<sup>s</sup> of 15 May, prior to Declar<sup>n</sup> of Independence, as was done in N. H., P. 1, & N. J., P. 78, 84.

2. Passed from impulse of necessity. See last clause of the preamble.

3. Before independence declared by Cong<sup>s</sup>.

4. Power from people nowhere pretended.

5. Other ordinances of same session deemed alterable, as relative to Senators—oaths—salt.

6. Provision for case of west Augusta, in its nature temporary.

7. Convention make themselves branch of the Legislature.

III. Constitution, if so to be called, defective.

1. In a union of powers, which is tyranny. Montesq<sup>n</sup>.

2. Executive Department dependent on Legislature: 1, for salary; 2, for character in triennial expulsion; 3, expensive; 4, may be for life, contrary to article 5 of Declaration of rights.

3. Judiciary dependent for am<sup>t</sup> of salary.

4. Privileges and wages of members of Legislature unlimited and undefined.

5. Senate badly constituted and improperly barred of the originating of Laws.

6. Equality of representation not provided for. See N. Y., P. 65; S. C., P. 165.

7. Impeachments of great moment on bad footing.

8. County courts seem to be fixed, P. 143, 144; also general Court.

9. Habeas corpus omitted.

10. No mode of expounding Constitution, and of course no check to Gen<sup>l</sup> Assembly.

11. Right of suffrage not well fixed—quære, if popish recusants, &c., not disfranchised?

IV. Constitution rests on acquiescence—a bad basis.

V. Revision during war improper; on return of peace, decency requires surrender of powers to people.

VI. No danger in referring to the people, who already exercise an equivalent power.

VII. If no change be made in the Constitution, it is advisable to have it ratified and secured against the doubts and imputations under which it now labors.

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[Proposition of Mr. Madison, on the subject of British Debts, submitted to the House of Delegates of Virginia, at the May session, 1784:]

Whereas by the 4th article of the Definitive Treaty of peace, ratified and proclaimed by the United States in Congress assembled, on the 14th day of Jany. last, “it is agreed that creditors on either side shall meet with no lawful impediment to the recovery of the full value in sterling money of all bona fide debts heretofore contracted;” and whereas it is the duty and determination of this Commonwealth, with a becoming reverence for the faith of Treaties, truly and honestly to give to the said article all the effect which circumstances not within its controul will now possibly admit; and inasmuch as the debts due from the good people of this Commonwealth to the subjects of G. Britain were contracted under the prospect of gradual payments, and are justly computed to exceed the possibility of full payment at once, more especially under the diminution of their property resulting from the devastations of the late war, and it is therefore conceived that the interest of the British Creditors themselves will be favored by fixing certain reasonable periods at which divided payments shall be made:

Resolved, that it is the opinion of this committee that the laws now in force relative to British debts ought to be so varied and emended as to make the same recoverable in the proportions and at the periods following; that is to say, part thereof, with interest of 5 pr et. from the date of the Definitive Treaty of peace, on the — day of —, another on the — day of —, another on the — day of —, and the remaining on the — day of —.

And whereas it is further stipulated by Art. 7th of the said Treaty, among other things, that "his Britannic Majesty shall with all convenient speed, and without causing any destruction, or carrying away any negroes or other property of the American inhabitants, withdraw all his armies, garrisons, and fleets, from the said United States, and from every port, place, and Harbour, within the same, leaving in all fortifications the American artillery that may be therein, and shall also order and cause all archives, records, deeds, and papers, belonging to any of the said States, or their citizens, which in the course of the war may have fallen into the hands of his officers, to be forthwith restored and delivered to the proper States and persons to whom they belong," which stipulation was in the same words contained in the Provisional articles, signed at Paris on the 30th day of November, 1782, by the Commissioners empowered on each part; and whereas posterior to the date of the said provisional articles, sundry negroes, the property of citizens of this Commonwealth, were carried away from the city of New York whilst in possession of the British forces, and no restitution or satisfaction on that head has been made, either before or since the Definitive Treaty of Peace; and whereas the good people of this Commonwealth have a clear right to expect that whilst, on one side, they are called upon by the U. S. in Congress assembled, to whom by the federal Constitution the powers of War and Peace are exclusively delegated, to carry into effect the stipulations in favour of British subjects, an equal observance of the stipulations in their own favor should, on the other side, be duly secured to them under the authority of the confederacy :

Resolved, that it is the opinion of this Committee that the Delegates representing this State in Congress ought to be instructed to urge in Congress peremptory measures for obtaining from G. Britain satisfaction for the infringement of the article aforesaid; and in case of refusal or unreasonable delay of such satisfaction, to urge that the sanction of Congress be given to the just policy of retaining so much of the debts due from citizens of this Commonwealth to British subjects as will fully repair the losses sustained from such infringement; and that to enable the said Delegates to proceed herein with the greater precision and effect, the Executive ought to be requested to take immediate measures for obtaining and transmitting to them all just claims of the citizens of this Commonwealth under the 7th art., as aforesaid.

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TO GENERAL WASHINGTON.

RICHMOND, July 2d, 1784.

DEAR SIR,—The sanction given by your favor of the 12th to my desire of remunerating the genius which produced “Common Sense,” has led to a trial in the Legislature for the purpose. The gift first proposed was a moiety of the tract on the Eastern Shore known by the name of the Secretary’s land. The easy reception it found induced the friends of the measure to add the other moiety to the proposition, which would have raised the market value of the donation to about £4,000, or upwards; though it would not probably have commanded a rent of more than £100 per annum. In this form the Bill passed through two readings. The third reading proved that the tide had suddenly changed,\* for the Bill was thrown out by a large majority. An attempt was next made to sell the land in question, and apply £2,000 of the money to the purchase of a Farm for Mr. Paine. This was lost by a single vote. Whether a

\* The change was produced by prejudices against Mr. Paine, thrown into circulation by Mr. Arthur Lee, [on account of Paine’s pamphlet in opposition to the Territorial claims of Virginia.]

greater disposition to reward patriotic and distinguished exertions of genius will be found on any succeeding occasion is not for me to predetermine. Should it finally appear that the merits of the Man, whose writings have so much contributed to infuse and foster the spirit of Independence in the people of America, are unable to inspire them with a just beneficence, the world, it is to be feared, will give us as little credit for our policy as for our gratitude in this particular. The wish of Mr. Paine to be provided for by separate acts of the States, rather than by Congress, is, I think, a natural and just one. In the latter case it might be construed into the wages of a mercenary writer. In the former, it would look like the returns of gratitude for voluntary services. Upon the same principle, the mode wished by Mr. Paine ought to be preferred by the States themselves.

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TO THOMAS JEFFERSON.

RICHMOND, July 3d, 1784.

DEAR SIR,—The Assembly adjourned the day before yesterday. I have been obliged to remain here since on private business for my Countrymen with the Auditor's and other departments. I had allotted towards the close of the session to undertake a narration for you of the proceedings, but the hurry, on which I did not sufficiently calculate, rendered it impossible, and I now find myself so abridged in time that I cannot fulfil my intentions. It will, however, be the less material, as Mr. Short, by whom this goes, will be possessed of almost every thing I could say. I inclose you a list of the acts passed, excepting a few which had not received the last solemnity when the list went to the press. Among the latter is an Act under which 1 per cent. of the land tax will be collected this fall, and will be for Congress. This, with the  $1\frac{1}{2}$  per cent. added to the impost on trade, will be all that Congress will obtain on their last requisition for this year. It will be much short of what they need, and of what might be expected from the declarations

with which we introduced the business of the Session. These declarations will be seen in the Journal, a copy of which I take for granted will be carried by Mr. Short. Another act not on the list lays duties on law proceedings, on alienations of land, on probats of wills, administration, and some other transactions which pass through official hands. This tax may be considered as the basis of a stamp tax; it will probably yield fifteen or twenty thousand pounds at present, which is set apart for the foreign Creditors of this State.

We made a warm struggle for the establishment of Norfolk and Alexandria as our only ports; but were obliged to add York, Tappahannock, and Bermuda hundred, in order to gain any thing and to restrain to these ports foreigners only. The footing on which British debts are put will appear from the Journal, noting only that a law is now in force which forbids suits for them. The minority in the Senate have protested on the subject. Having not seen the protest, I must refer to Mr. Short, who will no doubt charge himself with it.

A trial was made for a State Convention, but in a form not the most lucky. The adverse temper of the House, and particularly of Mr. Henry, had determined me to be silent on the subject. But a petition from Augusta, having among other things touched on a Reform of the Government, and R. H. Lee arriving with favorable sentiments, we thought it might not be amiss to stir the matter. Mr. Stuart, from Augusta, accordingly proposed to the Committee of propositions the Resolutions reported to the House, as per Journal. Unluckily, R. H. Lee was obliged by sickness to leave us the day before the question came on in committee of the whole, and Mr. Henry shewed a more violent opposition than we expected. The consequence was, that after two days' Debate the Report was negatived, and the majority, not content with stopping the measure for the present, availed themselves of their strength to put a supposed bar on the Journal against a future possibility of carrying it. The members for a Convention with full powers were not considerable for number, but included most of the young men of education and talents. A great many would have concurred in a

Convention for specified amendments, but they were not disposed to be active even for such a qualified plan.

Several petitions came forward in behalf of a General assessment, which was reported by the Committee of Religion to be reasonable. The friends of the measure did not chuse to try their strength in the House. The Episcopal Clergy introduced a notable project for re-establishing their independence of the laity. The foundation of it was, that the whole body should be legally incorporated, invested with the present property of the Church, made capable of acquiring indefinitely, empowered to make canons and bye-laws not contrary to the laws of the land, and incumbents, when once chosen by vestries, to be immoveable otherwise than by sentence of the convocation. Extraordinary as such a project was, it was preserved from a dishonorable death by the talents of Mr. Henry. It lies over for another session.

The public lands at Richmond not wanted for public use are ordered to be sold, and the money, aided by subscriptions, to be applied to the erection of buildings on the Hill, as formerly planned. This fixes the Government, which was near being made as vagrant as that of the United States, by a coalition between the friends of Williamsburg and Staunton. The point was carried by a small majority only.

The lands about Williamsburg are given to the University, and are worth, Mr. H. Tazewell thinks, £10,000 to it. For the encouragement of Mr. Maury's School, licence is granted for a lottery to raise not more than £2,000.

The revisal is ordered to be printed. A frivolous economy restrained the number of copies to 500. I shall secure the number you want and forward them by the first opportunity. The three revisors' labour was recollected on this occasion, and £500 voted for each. I have taken out your warrant in five parts, that it may be the more easily converted to use. It is to be paid out of the first unappropriated money in the Treasury, which renders its value very precarious unless the Treasurer should be willing to endorse it "receivable in taxes," which he is not obliged to do. I shall await your orders as to the disposition of it.



An effort was made for Paine, and the prospect once flattering. But a sudden opposition was brewed up, which put a negative on every form which could be given to the proposed remuneration. Mr. Short will give you particulars.

Col. Mason, the Attorney, Mr. Henderson, and myself, are to negotiate with Maryland, if she will appoint Commissioners to establish regulations for the Potowmac.

Since the receipt of yours of May 8, I have made diligent enquiry concerning the several schools most likely to answer for the education of your nephews. My information has determined me finally to prefer that of Mr. W. Maury, as least exceptionable. I have accordingly recommended it to Mrs. Carr, and on receiving her answer shall write to Mr. Maury, pointing out your wishes as to the course of study proper for Master Carr. I have not yet made up any opinion as to the disposition of your younger nephew, but shall continue my enquiries till I can do so. I find a greater deficiency of proper schools than I could have supposed, low as my expectations were on the subject. All that I can assure you of is, that I shall pursue your wishes with equal pleasure and faithfulness.

Your hint for appropriating the Slave tax to Congress fell in precisely with the opinion I had formed and suggested to those who are most attentive to our finances. The existing appropriation of half of it, however, to the military debt, was deemed a bar to such a measure. I wished for it because the slave holders are Tobacco makers, and will generally have hard money, which alone will serve for Congress. Nothing can exceed the confusion which reigns throughout our revenue department. We attempted, but in vain, to ascertain the amount of our debts and of our resources, as a basis for something like a system. Perhaps by the next session the information may be prepared. This confusion, indeed, runs through all our public affairs, and must continue as long as the present mode of legislating continues. If we cannot amend the Constitution, we must at least call in the aid of accurate penmen for extending Resolutions into bills, which at present are drawn in a manner

that must soon bring our laws and our Legislature into contempt among all orders of Citizens.

I have communicated your request from Philadelphia, May 25, to Mr. Zane. He writes by Mr. Short, and tells me he is possessed of the observations which he promised you. I found no opportunity of broaching a scheme for opening the navigation of the Potowmac under the auspices of General Washington, or of providing for such occurrences as the case of Marbois. With the aid of the Attorney, perhaps something may be done on the latter point next Session.

Adieu, my dear friend.

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TO THOMAS JEFFERSON.

ORANGE, August 20th, 1784.

DEAR SIR,—Your favor of the 1st July, written on the eve of your embarkation from Boston, was safely delivered by your servant Bob about the 20th of the same month. Along with it I received the pamphlet on the West India trade, and a copy of Deane's letters.

My last was written from Richmond on the adjournment of the General Assembly, and put into the hands of Mr. Short. It contained a cursory view of legislative proceedings, referring to the bearer for a more circumstantial one. Since the adjournment, I have been so little abroad that I am unable to say with certainty how far those proceedings harmonize with the vox populi. The opinion of some who have better means of information is, that a large majority of the people, either from a sense of private justice or of national faith, dislike the footing on which British debts are placed. The proceedings relative to an amendment of the State Constitution seem to interest the public much less than a friend to the scheme would wish.

The act which produces most agitation and discussion is that which restrains foreign trade to enumerated ports. Those who

meditate a revival of it on the old plan of British monopoly and diffusive credit, or whose mercantile arrangements might be disturbed by the innovation, with those whose local situations give them, or are thought to give them, an advantage in large vessels coming up the rivers to their usual stations, are busy in decoying the people into a belief that trade ought in all cases to be left to regulate itself; that to confine it to particular ports is to renounce the boon with which nature has favoured our country; and that if one set of men are to be importers and exporters, another set to be carriers between the mouths and heads of the rivers, and a third retailers, trade, as it must pass through so many hands, all taking a profit, must in the end come dearer to the people than if the simple plan should be continued which unites these several branches in the same hands.

These and other objections, tho' unsound, are not altogether unpalatable, and being propagated with more zeal and pains by those who have a particular interest to serve than proper answers are by those who regard the general interest only, make it very possible that the measure may be rescinded before it is to take effect. Should it escape such a fate, it will be owing to a few striking and undeniable facts, namely, that goods are much dearer in Virginia than in the States where trade is drawn to a general mart; that even goods brought from Philadelphia and Baltimore to Winchester, and other Western and South Western parts of Virginia, are retailed cheaper than those imported directly from Europe are sold on tide water; that generous as the present price of our Tobacco appears, the same article has currently sold 15 or 20 per cent. at least higher in Philadelphia, where, being as far from the ultimate market, it cannot be intrinsically worth more; that scarce a single vessel from any part of Europe, other than the British Dominions, comes into our ports, whilst vessels from so many other parts of Europe resort to other ports of America, almost all of them, too, in pursuit of the staple of Virginia.

The exemption of our own citizens from the restrictions is another circumstance that helps to parry attacks on the policy

of it. The warmest friends to the law were averse to this discrimination, which not only departs from its principle, but gives it an illiberal aspect to foreigners; but it was a necessary concession to prevailing sentiments. The like discrimination between our own citizens and those of other States, contrary to the federal articles, is an erratum which was omitted to be rectified, but will no doubt be so.

Notwithstanding the languor of our direct trade with Europe, this country has indirectly tasted some of the fruits of Independence. The price of our last crop of Tobacco has been, on James River, from 36s. to 42s. 6*d.* pr cwt., and has brought more specie into the country than it ever before contained at one time. The price of Hemp, however, has been reduced as much by the peace as that of Tobacco has been raised, being sold, I am told, as low as 20s. per cwt. beyond the Mountains. Our crops of wheat have been rather scanty, owing partly to the rigors of the Winter, partly to an insect,\* which in many places has destroyed whole fields of that grain. The same insect has, since the harvest, fallen upon the Corn with considerable damage; but without some very unusual disaster to that article the crop will be exuberant, and will afford plentiful supplies for the W. India Islands, if their European Masters will no longer deny themselves the benefit of such a trade with us. The crop of the Tobacco now on the ground will, if the weather continues favorable, be tolerably good, though much shortened on the whole by the want of early seasons for transplanting, and an uncommon number of the insects which prey upon it in its different stages. It will be politic, I think, for the people here to push the culture of this article whilst the price keeps up, it becoming more apparent every day that the richness of soil and fitness of climate on the Western waters will, in a few years, both reduce the price and engross the culture of it. This event begins to be generally foreseen, and increases the demand greatly for land on the Ohio. What think you of a guinea an acre being already the price for choice tracts, with sure titles?

\* Chinch-bug.

Nothing can delay such a revolution with regard to our staple but an impolitic and perverse attempt in Spain to shut the mouth of the Mississippi against the inhabitants above. I say *delay*, because she can no more finally stop the current of trade down the river than she can that of the river itself. The importance of this matter is in almost every mouth. I am frequently asked what progress has been made towards a treaty with Spain, and what may be expected from her liberality on this point, the querists all counting, on an early ability in the western settlements to apply to other motives, if necessary. My answers have, both from ignorance and prudence, been evasive. I have not thought fit, however, to cherish unfavorable impressions, being more and more led by revolving the subject to conclude that Spain will never be so mad as to persist in her present ideas. For want of better matter for correspondence, I will state the grounds on which I build my expectations.

First. Apt as the policy of nations is to disregard justice and the general rights of mankind, I deem it no small advantage that these considerations are in our favour. They must be felt in some degree by the most corrupt councils on a question whether the interest of millions shall be sacrificed to views concerning a distant and paltry settlement; they are every day acquiring weight from the progress of philosophy and civilization, and they must operate on those nations of Europe who have given us a title to their friendly offices, or who may wish to gain a title to ours.

Secondly. May not something be hoped from the respect which Spain may feel for consistency of character on an appeal to the doctrine maintained by herself in the year 1609, touching the Scheld, or at least from the use which may be made of that fact by the powers disposed to favor our views?

Thirdly. The interest of Spain at least ought to claim her attention. 1. A free trade down the Mississippi would make New Orleans one of the most flourishing emporiums in the world, and deriving its happiness from the benevolence of Spain, it would feel a firm loyalty to her government. At present it is an expensive establishment, settled chiefly by French, who

hate the government which oppresses them, who already covet a trade with the upper country, will become every day more sensible of the rigor which denies it to them, and will join in any attempt which may be made against their *masters*. 2d. A generous policy on the part of Spain towards the United States will be the cement of friendship and lasting peace with them. A contrary one will produce immediate heart burnings, and sow the *seeds* of inevitable hostility. The United States are already a power not to be despised by Spain; the time cannot be distant when, in spite of all precautions, the safety of her possessions in this quarter of the Globe must depend more on our peaceableness than her own power. 3. In another view, it is against the interest of Spain to throw obstacles in the way of our Western settlements. The part she took during the late war shews that she apprehended less from the power growing up in her neighborhood in a state of independence than as an instrument in the hands of Great Britain. If in this she calculated on the impotence of the United States, when dismembered from the British empire, she saw but little way into futurity; if on the pacific temper of republics, unjust irritations on her part will soon prove to her that these have like passions with other governments. Her *permanent* security seems to lie in the complexity of our federal government, and the diversity of interests among the members of it, which render offensive measures improbable in council and difficult in execution. If such be the case, when thirteen States compose the system, ought she not to wish to see the number enlarged to three and twenty? A source of temporary security to her is our want of naval strength; ought she not, then, to favor those emigrations to the Western land which, as long as they continue, will leave no supernumerary hands for the sea?

Fourthly. Should none of these circumstances affect her councils, she cannot surely so far disregard the usage of nations as to contend that her possessions at the mouth of the Mississippi justify a total denial of the use of it to the inhabitants above, when possessions much less disproportionate at the mouth of other rivers have been admitted only as a title to a moderate

toll. The case of the Rhine, the Maese, and the Scheld, as well as the Elbe and Oder, are, if I mistake not, in point here. How far other Rivers may afford parallel cases, I cannot say. That of the Mississippi is probably the strongest in the world.

Fifthly. Must not the general interest of Europe in all cases influence the determinations of any particular nation in Europe, and does not that interest in the present case clearly lie on our side? 1. All the principal powers have, in a general view, more to gain than to lose by denying a right of those who hold the mouths of rivers to intercept a communication with them above. France, Great Britain, and Sweden, have no opportunity of exerting such a right, and must wish a free passage for their merchandize in every country. Spain herself has no such opportunity, and has, besides, three of her principal rivers, one of them the seat of her metropolis, running through Portugal. Russia can have nothing to lose by denying this pretension, and is bound to do so in favor of her great rivers, the Neiper, the Niester, and the Don, which mouth in the Black sea, and of the passage thro' the Dardanelles, which she extorted from the Turks. The Emperor, in common with the inland States of Germany, and, moreover, by his possessions on the Maese and the Scheld, has a similar interest. The possessions of the King of Prussia on the Rhine, the Elbe, and the Oder, are pledges for his orthodoxy.

The United Provinces hold, it is true, the mouths of the Maese, the Rhine, and the Scheld, but a general freedom of trade is so much their policy, and they now carry on so much of it through the channel of rivers flowing thro' different dominions, that their weight can hardly be thrown into the wrong scale. The only powers that can have an interest in opposing the American doctrine are the Ottoman, which has already given up the point to Russia; Denmark, which is suffered to retain the entrance of the Baltic; Portugal, whose principal rivers head in Spain; Venice, which holds the mouth of the Po; and Dantzick, which commands that of the Vistula, if it is yet to be considered as a sovereign City. The prevailing disposition of Europe on this point once frustrated an attempt of Denmark

to exact a toll at the mouth of the Elbe by means of a fort on the Holstein side, which commands it. The fact is mentioned in Salmon's Gazetteer, under the head of Cluestadt. I have no opportunity of ascertaining the circumstances of the case, or of discovering like cases.

2. In a more important view, the settlement of the Western country, which will much depend on the free use of the Mississippi, will be beneficial to all nations who either directly or indirectly trade with the United States. By a free expansion of our people the establishment of internal manufactures will not only be long delayed, but the consumption of foreign manufactures long continue increasing; and at the same time, all the productions of the American soil, required by Europe in return for her manufactures, will proportionably increase. The vacant land of the United States lying on the waters of the Mississippi is, perhaps, equal in extent to the land actually settled. If no check be given to the emigrations from the latter to the former, they will probably keep pace at least with the increase of our people, till the population of both becomes nearly equal. For twenty or twenty-five years we shall consequently have as few internal manufactures in proportion to our numbers as at present, and at the end of that period our imported manufactures will be doubled. It may be observed, too, that as the market for their manufactures will first increase, and the provision for supplying it will follow, the price of supplies will naturally rise in favor of those who manufacture them. On the other hand, as the demand for the tobacco, indigo, rice, corn, &c., produced by America for exportation, will neither precede nor keep pace with their increase, the price must naturally sink in favor also of those who consume them.

Reverse the case by supposing the use of the Mississippi denied to us, and the consequence is, that many of our supernumerary hands who, in the former case, would be husbandmen on the waters of the Mississippi, will, on the latter supposition, be manufacturers on those of the Atlantic, and even those who may not be discouraged from seating the vacant lands will be obliged, by the want of vent for the produce of the soil, and of the means



of purchasing foreign manufactures, to manufacture in a great measure for themselves.

Should Spain yield the point of the navigation of the Mississippi, but at the same time refuse us the use of her shores, the benefit will be ideal only. I have conversed with several persons who have a practical knowledge of the subject, all of whom assure me that not only the right of fastening to the Spanish shore, but that of holding an entrepot in our own, or of using New Orleans as a free port, is essential to a free trade through that channel. It has been said that sea vessels can get up as high as latitude thirty-two to meet the river craft, but it will be with so much difficulty and disadvantage as to amount to a prohibition.

The idea has also been suggested of large magazines constructed for floating; but if this expedient were otherwise admissible, the hurricanes, which in that quarter frequently demolish edifices on land, forbid the least confidence in those which would have no foundation but water. Some territorial privileges, therefore, seem to be as indispensable to the use of the river as this is to the prosperity of the western country.

A place called "The Englishman's turn," on the island of about six leagues below the town of New Orleans, is, I am told, the fittest for our purpose, and that the lower side of the peninsula is the best. *Batonrouge* is also mentioned as a convenient station; and *Point Coupé* as the highest to which vessels can ascend with tolerable ease. Information, however, of this, from men who judge from a general and superficial view only, can never be received as accurate. If Spain be sincerely disposed to gratify us, I hope she will be sensible it cannot be done effectually without allowing a previous survey and deliberate choice.

Should it be impossible to obtain from her a portion of ground by other means, would it be unadvisable to attempt it by purchase? The price demanded could not well exceed the benefit to be obtained, and a reimbursement of the public advance might easily be provided for by the sale to individuals, and the conditions which might be annexed to their tenures. Such a

spot could not fail, in a little time, to equal in value the same extent in London or Amsterdam.

The most intelligent of those with whom I have conversed think that, on whatever footing our trade may be allowed, very judicious provision will be necessary for a fair adjustment of disputes between the Spaniards and the Americans—disputes which must be not only noxious to trade, but tend to embroil the two nations. Perhaps a joint tribunal, under some modification or other, might answer the purpose. There is a precedent, I see, for such an establishment, in the twenty-first article of the treaty of Munster, in 1648, between Spain and the United Netherlands.

I am informed that, sometime after New Orleans passed into the hands of Spain, her Governor forbid all British vessels navigating under the treaty of Paris to fasten to the shore, and caused such as did so to be cut loose. In consequence of this practice a British frigate went up near the Town, fastened to the shore, and set out guards to fire on any who might attempt to cut her loose. The Governor, after trying in vain to remove the frigate by menaces, acquiesced, after which British vessels indiscriminately used the shore; and even the residence of British Merchants in the town of New Orleans, trading clandestinely with the Spaniards, as well as openly with their own people, was winked at. The Treaty of 1763 stipulated to British subjects, as well as I recollect, no more than the right of navigating the river; and if that of using was admitted under that stipulation, the latter right must have been admitted to be included in the former.

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In consequence of my letter to Mrs. Carr, I have been called on by your elder nephew, who is well satisfied with the choice made of Williamsburg for his future studies. I have furnished him with letters to my acquaintance there, and with a draught on your steward for £12. He will be down by the opening of Mr. Maury's school at the close of the vacation, which lasts from the beginning of August to the end of September. I have the greater hopes that the preference of this school will turn

out a proper one as it has received the approbation of the literary gentlemen of Williamsburg, and will be periodically examined by Mr. Wythe and others. Your younger nephew is with Major Callis, who will keep school some time longer. I am at a loss as yet where to fix him, but will guard as much as possible against any idle interval.

I am, very affect<sup>ely</sup>, dear Sir, your friend and serv<sup>t</sup>

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TO THOMAS JEFFERSON.

PHILADELPHIA, Sep<sup>r</sup> 7th, 1784.

DEAR SIR,—Some business, the need of exercise after a very sedentary period, and the view of extending my ramble into the Eastern States, which I have long had a curiosity to see, have brought me to this place. \* \* \* \* \* At Baltimore I fell in with the Marquis de la Fayette, returning from a visit to Mount Vernon. Wherever he passes he receives the most flattering tokens of sincere affection from all ranks. He did not propose to have left Virginia so soon, but General Washington was about setting out on a trip to the Ohio, and could not then accompany him on some visits, as he wished to do. The present plan of the Marquis is to proceed immediately to New York; thence, by Rhode Island, to Boston; thence thro' Albany to Fort Schuyler, where a treaty with the Indians is to be held the latter end of this month; thence to Virginia, so as to meet the Legislature at Richmond. I have some thoughts of making this tour with him, but suspend my final resolution till I get to New York, whither I shall follow him in a day or two.

The relation in which the Marquis stands to France and America has induced me to enter into a free conversation with him on the subject of the Mississippi. I have endeavored emphatically to impress on him that the ideas of America and of Spain irreconcilably clash; that unless the mediation of France be effectually exerted, an actual rupture is near at hand; that

in such an event, the connection between France and Spain will give the enemies of the former in America the fairest opportunity of involving her in our resentments against the latter, and of introducing Great Britain as a party with us against both; that America cannot possibly be diverted from her object, and therefore France is bound to set every engine at work to divert Spain from hers; and that France has, besides, a great interest in a trade with the western country through the Mississippi.

I thought it not amiss, also, to suggest to him some of the considerations which seem to appeal to the prudence of Spain. He admitted the force of everything I said; told me he would write in the most [favorable] terms to the Count de Vergennes by the packet which will probably carry this, and let me see his letter at New York before he sends it. He thinks that Spain is bent on excluding us from the Mississippi, and mentioned several anecdotes which happened while he was at Madrid in proof of it.

The Committee of the States have dispersed. Several of the Eastern members having, by quitting it, reduced the number below a quorum, the impotent remnant thought it needless to keep together. It is not probable they will be reassembled before November, so that there will be an entire interregnum of the federal Government for some time, against the intention of Congress I apprehend, as well as against every rule of decorum.

The Marquis this moment stepped into my room, and, seeing my cyphers before me, dropped some questions which obliged me, in order to avoid reserve, to let him know that I was writing to you. I said nothing of the subject, but he will probably infer from our conversation that the Mississippi is most in my thoughts.

Mrs. House charges me with a thousand compliments and kind wishes for you and Miss Patsy. We hear nothing of Mrs. Trist, since her arrival at the Falls of the Ohio, on her way to N. Orleans. There is no doubt that she proceeded down the river thence, unapprized of her loss. When and how she will be able to get back, since the Spaniards have shut all

their ports against the U. S., is uncertain, and gives much anxiety to her friends. Browse has a windfall from his grandmother of £1,000 sterling.

Present my regards to Miss Patsy and to Mr. Short, if he should be with you, and accept yourself, Dear Sir, the sincerest affection of

Your friend and servant.

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TO THOMAS JEFFERSON.

NEW YORK, Sept<sup>r</sup> 15th, 1784.

DEAR SIR,—In pursuance of my intentions, as explained in my last, dated in Philadelphia, I came to this City on Saturday last. The information I have here received convinces me that I cannot accomplish the whole route I had planned within the time to which I am limited, nor go from this to Boston in the mode which I had reckoned upon. I shall therefore decline this part of my plan, at least for the present, and content myself with a trip to Fort Schuyler, in which I shall gratify my curiosity in several respects, and have the pleasure of the Marquis's company. We shall set off this afternoon in a Barge up the North River. The Marquis has received in this City a continuation of those marks of cordial esteem and affection which were hinted in my last. The Gazettes herewith enclosed will give you samples of them. Besides the personal homage he receives, his presence has furnished occasion for fresh manifestations of those sentiments towards France which have been so well merited by her, but which her Enemies pretended would soon give way to returning affection for G. Britain. In this view, a republication of those passages in the Gazettes of France may be of advantage to us. They will at least give pleasure to the Friends of the Marquis.

We have an account from Canada, how far to be relied on I cannot say, that the Indians have surprised and plundered Michillimackinac, where the English had a great amount of Stores

and Merchandize, and that they have refused to treat with Sir John Johnson.

\* \* \* \* \*

The Marquis has shewn me a passage in his letter to the Comte de Vergennes, in which he sketches the idea relative to the Mississippi. He says he has not had time to dilate upon it, but that his next letter will do it fully.

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TO THOMAS JEFFERSON.

NEW YORK, October 11th, 1784.

DEAR SIR,—My last, dated from this place on the 15th ultimo, informed you of my projected trip to Fort Schuyler. I am this moment arrived so far on my return to Virginia. My past delay requires so much hurry now, that I can only drop a few lines for the packet which is to sail on the 15th instant. The Marquis and myself were overtaken at Albany by Mr. de Marbois, on the same errand with ourselves. We reached Fort Schuyler on the 29th, and on the next day paid a visit to the Oneida Nation, 18 miles distant. The Commissioners did not get up till the Saturday following. We found a small portion only of the six nations assembled; nor was the number much increased when we quitted the scene of business. Accounts, however, had come of deputies from more distant tribes being on the way. The Marquis was received by the Indians with equal proofs of attachment as have been shewn him elsewhere in America. This personal attachment, with their supposed predilection for his nation, and the reports propagated among them that the Alliance between France and the United States was transient only, led him, with the sanction of the Commissioners, to deliver a Speech to the Indian Chiefs, coinciding with the object of the Treaty. The answers were very favorable in their general tenor. Copies of both will be sent to Mons. de Vergennes and the M. de Castries, by Mr. Marbois, and be within the reach of your curiosity. The originals were so much

appropriated to this use during my stay with the Marquis, that I had no opportunity of providing copies for you.

What the upshot of the Treaty will be is uncertain. The possession of the posts of Niagara, &c., by the British is a very inauspicious circumstance. Another is, that we are not likely to make a figure otherwise that will impress a high idea of our power or opulence. These obstacles will be rendered much more embarrassing by the instructions to the Commissioners, which, I am told, leave no space for negociation or concession, and will consequently oblige them, in case of refusal in the Indians to yield the ultimate hopes of Congress, to break up the Treaty. But what will be the consequence of such an emergency? Can they grant a peace without cessions of territory; or if they do, must not some other price hereafter purchase them? A Truce has never, I believe, been introduced with the Savages, nor do I suppose that any provision has been made by Congress for such a contingency.

The perseverance of the British in retaining the posts produces various conjectures. Some suppose it is meant to enforce a fulfilment of the Treaty of peace on our part. This interpretation is said to have been thrown out on the other side. Others, that it is a salve for the wound given the Savages, who are made to believe that the posts will not be given up till good terms shall be granted them by Congress. Others, that it is the effect merely of omission in the British Government to send orders. Others, that it is meant to fix the fur trade in the British channel, and it is even said that the Government of Canada has a personal interest in securing a monopoly of at least the crop of this season. I am informed by a person just from Michilimackinac that this will be greater than it has been for several seasons past, or perhaps any preceding season, and that no part of it is allowed by the British Commanders to be brought through the United States. From the same quarter I learn that the posts have been lately well provisioned for the winter, and that reliefs, if not reinforcements, of the garrisons will take place. Col. Monroe had passed Oswego when last heard of, and was likely to execute his plan. If I have time

and opportunity I will write again from Philadelphia, for which I set out immediately; if not, from Richmond. The Marquis proceeded from Albany to Boston, from whence he will go, via Rhode Island, to Virginia, and be at the Assembly. Thence he returns into the Northern States to embark for Europe.

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TO THOMAS JEFFERSON.

PHILADELPHIA, October 17th, 1784.

DEAR SIR,—On my arrival here I found that Mr. Short had passed through on his way to New York, and was there at the date of my last. I regret much that I missed the pleasure of seeing him. The inclosed was put into my hands by Mrs. House, who received it after he left Philadelphia. My two last, neither of which were in cypher, were written, as will be all future ones in the same situation, in expectation of their being read by postmasters. I am well assured that this is the fate of all letters, at least to and from public persons, not only in France but all the other Countries of Europe. Having now the use of my cypher, I can write without restraint.

In my last I gave you a sketch of what passed at Fort Schuyler during my stay there; mentioning in particular that the Marquis had made a speech to the Indians, with the sanction of the Commissioners, Wolcott, Lee, and Butler. The question will probably occur how a foreigner, and a private one, could appear on the theatre of a public Treaty between the United States and the Indian nations, and how the Commissioners could lend a sanction to it. Instead of offering an opinion of the measure, I will state the manner in which it was brought about. It seems that most of the Indian tribes, particularly those of the Iroquois, retain a strong predilection for the French, and most of the latter an enthusiastic idea of the Marquis. This idea has resulted from his being a Frenchman, the figure he has made during the war, and the arrival of several important events which he foretold to them soon after he came to this country. Before he went to Fort Schuyler, it had been sug-



gested, either in compliment or sincerity, that his presence and influence might be of material service to the treaty. At Albany, the same thing had been said to him by General Wolcott. On his arrival at Fort Schuyler, Mr. Kirkland recommended an exertion of his influence as of essential consequence to the treaty, painting in the strongest colours the attachment of the Indians to his person, which seemed indeed to be verified by their caresses, and the artifices employed by the British partizans to frustrate the objects of the treaty, among which was a pretext that the alliance between the United States and France was insincere and transitory, and, consequently, the respect of the Indians for the latter ought to be no motive for their respecting the former. Upon these circumstances, the Marquis grounded a written message to the Commissioners before they got up, intimating his disposition to render the United States any service his small influence over the Indians might put in his power, and desiring to know what the Commissioners would chuse him to say. The answer, in Mr. Lee's hand, consisted of polite acknowledgments, and information that the Commissioners would be happy in affording him an opportunity of saying whatever he might wish, forbearing to advise or suggest what it would be best for him to say. The Marquis perceived the caution, but imputed it to Lee alone.

As his stay was to be very short, it was necessary for him to take provisional measures before the arrival of the Commissioners, and particularly for calling in the Oneida Chiefs, who were at their town. It fell to my lot to be consulted in his dilemma. My advice was, that he should invite the Chiefs in such a way as would give him an opportunity of addressing them publicly, if on a personal interview with the Commissioners it should be judged expedient, or of satisfying their expectations with a friendly entertainment in return for the civilities his visit to their town had met with. This advice was approved; but the Indians brought with them such ideas of his importance as no private reception would probably have been equal to. When the Commissioners arrived, the Marquis consulted them in person. They were reserved; he was embar-

passed. Finally, they changed their plan, and concurred explicitly in his making a Speech in form. He accordingly prepared one, communicated it to the Commissioners, and publicly pronounced it, the Commissioners premising such an one as was thought proper to introduce his. The answer of the Sachems, as well as the circumstances of the audience, denoted the highest reverence for the orator. The Chief of the Oneidas said that the word which he had spoken to them early in the war had prevented them from being misled to the wrong side of it.

During this scene, and even during the whole stay of the Marquis, he was the only conspicuous figure. The Commissioners were eclipsed. All of them probably felt it. Lee complained to me of the immoderate stress laid on the influence of the Marquis, and evidently promoted his departure. The Marquis was not insensible of it, but consoled himself with the service which he thought the Indian Speech would witness that he had rendered to the United States. I am persuaded that the transaction is also pleasing to him in another view, as it will form a bright column in the Gazettes of Europe. As it is blended with the proceedings of the Commissioners, it will probably not be published in America very soon.

The time I have lately passed with the Marquis has given me a pretty thorough insight into his character. With great natural frankness of temper, he unites much address and very considerable talents. In his politics, he says his three hobby-horses are the alliance between France and the United States, the union of the latter, and the manumission of the Slaves. The two former are the dearer to him, as they are connected with his personal glory. The last does him real honor, as it is a proof of his humanity. In a word, I take him to be as amiable a man as can be imagined, and as sincere an American as any Frenchman can be; one whose past services gratitude obliges us to acknowledge, and whose future friendship prudence requires us to cultivate.

The Committee of the States have never reassembled. The case of Longchamps has been left both by the Legislative and Executive of this State to its Judiciary course. He is sentenced

to a fine of 100 crowns, to two years' imprisonment, and security for good behaviour for seven years. On tuesday morning I set off for Richmond, where I ought to be to-morrow, but some delays have put it out of my power.

The ramble I have taken has rather inflamed than extinguished my curiosity to see the Northern and N. W. Country. If circumstances be favorable, I may probably resume it next summer. Present my compliments to Miss Patsy, for whom, as well as yourself, Mrs. House charges me with hers. She has lately had a letter from poor Mrs. Trist, every syllable of which is the language of affection itself. She had arrived safe at the habitation of her deceased Husband, but will not be able to leave that country till the spring, at the nearest. The only happiness she says she is capable of, is to receive proofs that her friends have not forgotten her. I do not learn what is likely to be the amount of the effects left by Mr. T.; former accounts varied from 6 to 10,000 dollars.

I am, my dear Sir, yours very affect<sup>ly</sup>.

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TO JAMES MONROE.

RICHMOND, November —, 1784.

DEAR SIR,—Your favor without date was brought by thursday's post. It inclosed a cypher, for which I thank you, and which I shall make use of as occasion may require, though, from the nature of our respective situations, its chief value will be derived from your use of it. General Washington arrived here on sunday last, and the Marquis on thursday. The latter came from Boston in a French frigate. They have both been addressed and entertained in the best manner that circumstances would admit. These attentions, and the balloting for public offices, have consumed the greatest part of the past week. Mr. Jones is put into the place of Mr. Short; Mr. Roane and Mr. M. Selden are to go into those of Mr. M. Smith and Col. Christian, who are the victims to that part of the Constitution which

directs a triennial purgation of the Council. The vote is not to take effect till the Spring, but was made now in consequence of the discontinuance of the spring session. The rejected Candidates were Col. Bland, Cyrus Griffin, G. Webb, W. C. Nicholas, Mr. Breckenridge, Col. Carrington. The latter was within one vote of Mr. Selden; Col. B., Mr. N., and Mr. B., had, as nearly as I recollect, between 20 and 30 votes; Mr. G. & Mr. W. very few. Mr. H. Innes, late Judge of the Kentucky Court, is to succeed Walker Daniel, late Attorney General, in that District. His competitor was Mr. Stuart, who was about 15 votes behind.

I am, dear sir, your's sincerely.

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TO JAMES MONROE.

RICHMOND, November 14th, 1784.

DEAR SIR,—I had intended by this post to commence our correspondence with a narrative of what has been done and is proposed to be done at the present Session of the General Assembly, but, by your last letter to Mr. Jones, I find that it is very uncertain whether this will get to Trenton before you leave it for Virginia. I cannot, however, postpone my congratulations on your critical escape from the danger which lay in ambush for you, and your safe return to Trenton. My ramble extended neither into the dangers nor gratifications of yours. It was made extremely pleasing by sundry circumstances, but would have been more so, I assure you, Sir, if we had been contemporaries in the route we both passed.

The Indians begin to be unquiet, we hear, both on the North West and South East sides of the Ohio. The Spaniards are charged with spurring on the latter. As means of obviating the dangers, the House of Delegates have resolved to authorize the Executive to suspend the surveying of land within the unpurchased limits, and to instruct the Delegation to urge in Congress Treaties with the Southern Indians, and negotiations

with Spain touching the Mississippi. They also propose to set on foot surveys of Potowmac and James Rivers, from their falls to their sources. But their principal attention has been, and is still, occupied with a scheme proposed for a General Assessment; 47 have carried it against 32. In its present form it excludes all but Christian sects. The Presbyterian Clergy have remonstrated against any narrow principles, but indirectly favor a more comprehensive establishment. I think the bottom will be enlarged, and that a trial will be made of the practicability of the project. The successor to Mr. Harrison is not yet appointed or nominated. It is in the option of Mr. Henry, and I fancy he will not decline the service. There will be three vacancies in the Council, for which no nominations have been made. Mr. C. Griffith will probably be named, and Mr. W. Nicholas. Mr. Roane is also spoken of.

I am, dear sir, your's sincerely.

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TO JAMES MONROE.

RICHMOND, Nov<sup>r</sup> 27th. 1784.

DEAR SIR,—Your favor of the 15th instant came to hand by thursday's post. Mine by the last post acknowledged your preceding one. The umbrage given to the Commissioners of the United States by the negociations of New York with the Indians was not altogether unknown to me, though I am less acquainted with the circumstances of it than your letter supposes. The idea which I at present have of the affair leads me to say, that as far as New York may elaim a right of treating with Indians for the purchase of lands within her limits, she has the Confederation on her side; as far as she may have exerted that right in contravention of the General Treaty, or even unconfidentially with the Commissioners of Congress, she has violated both duty and decorum. The federal Articles give Congress the exclusive right of *managing all affairs* with the Indians *not mem-*

bers of any State, under a proviso, that the *Legislative authority* of the State within its own limits be not violated. By Indians not members of a State, must be meant those, I conceive, who do not live within the body of the Society, or whose persons or property form no objects of its laws. In the case of Indians of this description, the only restraint on Congress is imposed by the *Legislative authority* of the State.

If this proviso be taken in its full latitude, it must destroy the authority of Congress altogether, since no act of Congress within the limits of a State can be conceived which will not in some way or other encroach upon the authority of the State. In order, then, to give some meaning to both parts of the sentence, as a known rule of interpretation requires, we must restrain this proviso to some particular view of the parties. What was this view? My answer is, that it was to save to the States their right of pre-emption of lands from the Indians. My reasons are: 1. That this was the principal right formerly exerted by the Colonies with regard to the Indians. 2. That it was a right asserted by the laws as well as the proceedings of all of them, and therefore, being most familiar, would be most likely to be in contemplation of the parties. 3. That being of most consequence to the States individually, and least inconsistent with the general powers of Congress, it was most likely to be made a ground of compromise. 4. It has been always said that the proviso came from the Virginia Delegates, who would naturally be most vigilant over the territorial rights of their constituents. But whatever may be the true boundary between the authority of Congress and that of New York, or however indiscreet the latter may have been, I join entirely with you in thinking that temperance on the part of the former will be the wisest policy.

I concur with you equally with regard to the ignominious secession at Annapolis. As Congress are too impotent to punish such offences, the task must finally be left to the States, and experience has shewn, in the case of Howell, that the interposition of Congress against an offender, instead of promoting his

chastisement, may give him a significance which he otherwise would never arrive at, and may induce a State to patronize an act which of their own accord they would have punished.

I am sorry to find the affair of Mr. de Marbois taking so serious a face. As the insult was committed within the jurisdiction of Pennsylvania, I think you are right in supposing the offender could not be transferred to another jurisdiction for punishment. The proper questions, therefore, are: 1. Whether the existing law was fully put in force against him by Pennsylvania? 2. Whether due provision has been made by that State against like contingencies? Nothing seems to be more difficult under our new Governments than to impress on the attention of our Legislatures a due sense of those duties which spring from our relation to foreign nations.

Several of us have been labouring much of late in the General Assembly here to provide for a case with which we are every day threatened by the eagerness of our disorderly citizens for Spanish plunder and Spanish blood. It has been proposed to authorise Congress, whenever satisfactory proof shall be given to them by a foreign power of such a crime being committed by our citizens within its jurisdiction as by the law of Nations calls for a surrender of the offender, and the foreign power shall actually make the demand, [to require his surrender from the Executive of the State,] and that the Executive may, at the instance of Congress, apprehend and deliver up the offender. That there are offences of that class is clearly stated by Vattel in particular, and that the business ought to pass through Congress is equally clear. The proposition was a few days ago rejected in Committee of the whole. To-day, on the report of the Committee, it has been agreed to by a small majority. This is the most material question that has agitated us during the week past.

The Bill for a Religious Assessment has not been yet brought in. Mr. Henry, the father of the scheme, is gone up to his seat for his family, and will no more sit in the House of Delegates—a circumstance very inauspicious to his offspring. An attempt

will be made for Circuit Courts, and Mr. Jones has it in contemplation to try whether any change has taken place in the sentiments of the House of Delegates on the subject of the Treaty. He will write to you by this post, and I refer to him for what I may have omitted.

With sincere regard and esteem, I am, dear sir, your friend and serv<sup>t</sup>.

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TO COL. JAMES MADISON.

RICHMOND, Nov<sup>r</sup> 27th, 1784.

HON<sup>d</sup> SIR,—Having a moment's time to drop you a line, I inform you that the Bill for confirming surveys against subsequent entries has been negatived by a large majority, rather on the principle that it was unnecessary and retrospective than that it was unjust in itself. On the contrary, all the principal gentlemen were of opinion that it was just, but already provided for by the law. Mr. Innes, the late Judge of the Kentucky Court, in particular, told me he thought such surveys could not be overset. You will have heard of the vote in favor of the General Assessment. The bill is not yet brought in, and I question whether it will; or if so, whether it will pass. This day a vote passed without a dissent for Circuit Courts. What opposition may be made to its passage I know not.

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TO JAMES MONROE.

RICHMOND, December 4th, 1784.

DEAR SIR,—On saturday last a proposition was agreed to for establishing Circuit Courts throughout this Commonwealth, and yesterday a bill for that purpose was reported. On Wednesday next it will undergo a discussion of the Committee of the whole. The circumstances under which it has passed thus



far seem to promise a favorable issue, but the dangers which it is yet to go through are formidable. They proceed from latent and interested objections, which have on several former occasions proved fatal to similar attempts. The plan is pretty analogous to the *Nisi prius* established in England.

On Tuesday, sundry propositions were made by Mr. Jones in favor of the 4th Article of the Treaty of peace. They passed by a large majority, with blanks as to the length of time to be given for the payment of the principal, and for disallowing the interest. The former was filled up with seven years, in preference to 10, 8, 6, and 5, which were contended for on different sides. The latter, with the period between April 19th, 1775, and March 3d, 1783, in preference to the period between the first date and May, 1784, the date of the exchange of ratifications. The bill will probably pass, but not, I fear, without some improper ingredients, and particularly some conditions relative to the North Western posts, or the Negroes, which lye without our province.

The bill for the Religious Assessment was reported yesterday, and will be taken up in a Committee of the whole next week. Its friends are much disheartened at the loss of Mr. Henry. Its fate is, I think, very uncertain. Another Act of the House of Delegates during the present week is a direction to the Executive to carry into effect the vote of a Bust to [of?] the Marquis de Lafayette, to be presented to the City of Paris, and to cause another to be procured to be set up in this Country. These resolutions are so contrived as to hide as much as possible the circumstance in the original vote of the bust being to be presented to the Marquis himself. I find by a letter from General Washington that he was on the 28 ult. just setting out to accompany the Marquis to Annapolis, and thence to Baltimore. The latter may therefore soon be expected at Trenton. He has been much caressed here, as well as everywhere else on his Tour, and I make no doubt he will leave Congress with equal reason to be pleased with his visit. I meant to have sent you a copy of the Resolutions touching the Busts, but have been disappointed in getting one. They were offered by Mr. Jones,

and agreed to unanimously, as they no doubt will also be in the Senate.

Wishing you all happiness, I am, dear sir, your's sincerely.

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TO JAMES MONROE.

RICHMOND, December 17th, 1784.

DEAR SIR,— \* \* \* \* \*

Our progress in the Revisal has been stopped by the waste of time produced by the inveterate and prolix opposition of its adversaries, and the approach of Christmas. The Bill proportioning crimes and punishments was the one at which we stuck, after wading through the most difficult parts of it. A few subsequent bills, however, were excepted from the postponement. Among these was the Bill for establishing Religious freedom, which has got through the House of Delegates without alteration, though not without warm opposition. Mr. Mercer and Mr. Corbin were the principal Combatants against it.

Mr. Jones is well.

With sincerity, I am, your affectionate friend.

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TO JAMES MONROE.

RICHMOND, December 24th, 1784.

DEAR SIR,—Your favor of the 14th instant came to hand on thursday. A proposition was made a few days ago for this State to empower Congress to carry into effect the imposts, as soon as twelve States should make themselves parties to it. It was rejected on the following grounds: 1. That it would present a disagreeable aspect of our affairs to foreign Nations. 2. That it might lead to other combinations of lesser numbers of the States. 3. That it would render Rhode Island an inlet for clandestine trade. 4. That it would sour her temper still

further, at a crisis when her concurrence in some *general and radical amendment* of the Confederation may be invited by Congress. 5. That the chance is almost infinitely against a union of twelve States on such new ground, and consequently the experiment would be only a fresh display of the jarring policy of the States, and afford a fresh triumph and irritation to Rhode Island.

The act empowering Congress to surrender Citizens of this State to the Sovereign demanding them, for certain crimes committed within his jurisdiction, has passed. Congress are to judge whether the crimes be such as according to the Law of Nations warrant such demand, as well as whether the fact be duly proven. Concurrent provision is made for punishing such offences by our own laws, in case no such demand be made to or be not admitted by Congress, and legal proof can be had. The latter law extends to offences against the Indians. As these tribes do not observe the law of Nations, it was supposed neither necessary nor proper to give up citizens to them. The act is not suspended on the concurrence of any other State, it being judged favorable to the interest of this though no other should follow the example, and a fit branch of the federal prerogative. The Bill for Assize Courts has passed the Senate without any material amendment, is enrolled, and waits only to be examined by the Committee and signed by the Speakers. The General Assessment, on the question for engrossing it, was yesterday carried by 44 against 42. To-day its third reading was put off till November next, by 45 against 37, or thereabouts, and it is to be printed for consideration of the people. Much business is still on the table, but we shall probably rise about New-year's day.

I am, dear sir, with sincere regard, your friend and serv<sup>t</sup>.

[Notes of speech made by Mr. Madison in the House of Delegates of Virginia, at the autumnal session of 1784, in opposition to the General assessment Bill for support on Religious teachers:]

I. Rel. not within purview of civil authority.

Tendency of estab<sup>d</sup> Xnty. 1. To project of uniformity. 2. To penal laws for support<sup>s</sup> it.

Progress of Gen<sup>l</sup> Assess<sup>t</sup> proves this tendency.

Difference between establish<sup>d</sup> and tolerating error.

True question not, Is Relig. necess<sup>y</sup>? but—

II. Are Rel. Estab<sup>ts</sup> necess<sup>y</sup> for religion? No.

1. Propensity of man to Religion.

2. Experience shows relig. corrupted by Estab<sup>ts</sup>.

3. Downfall of States mentioned by Mr. Henry happened where there was estab<sup>d</sup>.

4. Experience gives no model of Gen<sup>l</sup> Assess<sup>t</sup>.

5. Case of Pa. explained; not solitary; N. J. See Const<sup>n</sup> of it; R. I., N. J., D.

6. Case of primitive Xnty; of reformation; of Dissenters formerly.

7. Progress of Religious liberty.

III. Policy.

1. Promote emigrations from State.

2. Prevent immigration into it, as asylum.

IV. Necessity of Estab<sup>t</sup> inferred from state of country; true causes of disease.

1. War. } Common to other States, and produce same

2. Bad laws. } complaints in N. E.

3. Pretext from taxes.

4. State of Administration of justice.

5. Transition from old to new plan.

6. Policy and hopes of friends to G<sup>l</sup> Assess<sup>t</sup>.

True remedies: Not Estab<sup>d</sup>.—but bring out of war.

1. Laws to cherish virtue.

2. Administration of justice.

3. Personal example. Associations for Rel.

4. By present vote cut off hope of Gen. Assess<sup>t</sup>.

5. Education of youth.

V. Probable defects of Bill when prepared.

What is Xnty? courts of law to decide.

Is it Trinitarianism, arianism, socinianism? Is it salvation by faith, or works also? &c., &c., &c.

Ends in what is orthodoxy, what Heresy.

VI. Dishonors christianity.

Panegyric on it, on our side.

Decla<sup>n</sup> of Rights.

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TO RICH<sup>d</sup> H. LEE.

RICHMOND, 25 Dec., 1784.

DEAR SIR,—Be pleased to accept my congratulations on the event which has given to your talents a station in which they cannot fail to be equally useful to the public and honorable to yourself.\* I offer them with the greater pleasure, too, as such an event is a proof that Congress have unfettered themselves from a rule which threatened to exclude merit from a choice in which merit only ought to prevail.

The assize Bill has, since my last, past into a law. The Senate made no material change in it, but gave an almost unanimous suffrage to it. The only hesitation with them was between that plan and another, which would have rendered the circuit courts independent of the general court. The former, which follows the English model, unites the advantages of a trial of facts, where facts can be ascertained with greatest certainty and cheapness, with a decision of law, where such decision can be made with most wisdom and uniformity. The advantage of the latter consisted in removing the inconveniency of making up the issues and awarding the judgments in the general court, which it was supposed would increase expense, if not delay, and particularly require the service of a double number of lawyers. Experience will probably shew that the latter supposition is exaggerated, and that the system preferred is at least the best to begin with.

\* Mr. Lee had just been elected President of Congress.

The general assessment bill was ordered to be engrossed by forty-four against forty-two, and has since, by forty-five against thirty-seven, been postponed till November next, and is to be printed for immediate consideration. An act incorporating the Episcopal church has passed in a form less offensive than the one proposed at the last Session. The Bill for payment of British debts was under debate yesterday; its passage seems probable, but there is reason to fear that attempts will yet be made to trammel it. It still takes seven years for payment, though the Glasgow merchants have signified their assent to four years. The merchants of this town and Petersburg have remonstrated against the idea of giving the British merchants a summary recovery at the periods of the instalments. The Bill for opening the Potowmac is suspended on the result of a conference. General Washington, General Gates, and Colonel Blackburn, are commissioned to hold conferences with Maryland on the subject. A Bill for opening James River, on a different plan, has passed the House of Delegates. A Bill will also probably pass for surveying the waters of those two rivers to their sources, the country between them and the western waters, and the latter down to the Ohio. It will also probably provide for a survey of the different routes for a communication between the waters of Elizabeth River and those of North Carolina.

In the course of last week a proposition was made to empower Congress to collect the Impost within this State [Virginia] as soon as twelve States should unite in the scheme. The arguments which prevailed against it were the unfavorable aspect it would present to foreigners; the tendency of the example to inferior combinations; the field it would open for contraband trade; its probable effect on the temper of Rhode Island, which might thwart other necessary measures requiring the unanimity of the States; the improbability of the union of twelve States on this new ground, a failure of which would increase the appearance of discord in their policy, and give fresh triumph and irritation to Rhode Island.

I have not yet found leisure to scan the project of a Continental Convention with so close an eye as to have made up any

observations worthy of being mentioned to you. In general, I hold it for a maxim, that the Union of the States is essential to their safety against foreign danger and internal contention; and that the perpetuity and efficacy of the present system cannot be confided in. The question therefore is, in what mode and at what moment the experiment for supplying the defects ought to be made. The answer to this question cannot be given without a knowledge greater than I possess of the temper and views of the different States. Virginia seems, I think, to have excellent dispositions towards the Confederacy, but her assent or dissent to such a proposition would probably depend on the chance of its having no opponent capable of rousing the prejudices and jealousies of the Assembly against innovations, particularly such as will derogate from their own power and importance. Should a view of the other States present no objections against the experiment, individually, I would wish none to be presupposed here.

With great esteem and regard, I am, dear sir, your obt and hum. serv<sup>t</sup>.

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TO GENERAL WASHINGTON.

RICHMOND, January 1, 1785.

DEAR SIR,—I was yesterday honored with yours of the 28th ultimo, accompanying the Report of the Conferees, &c., &c. The latter has been laid before the House of Delegates, and a committee appointed to report a Bill and Resolutions corresponding with those of Maryland. The only danger of miscarriage arises from the impatience of the members to depart, and the bare competency of the present number. By great efforts only they have been detained thus long. I am not without hopes, however, that the business of the Potowmac at least will be provided for before the adjournment, and some provision now depending be compleated in favor of James River. Before the receipt of your dispatches a Bill had been passed by the House

of Delegates for surveying the former as well as the latter river, on a plan which we shall endeavour, by concert with the Senate, to accommodate to the provisions of Maryland. A Resolution has passed both Houses instructing the Commissioners, appointed in June last to settle with Maryland Commissioners the jurisdiction of the Potowmac, to join in a representation to Pennsylvania on the subject of the waters of the Ohio within her limits. This instruction ought rather to have been committed to the late conference; but when the Commission, under which you attended it, passed, I was confined to my room, and it did not occur to any other member. And, indeed, if I had been well, the haste which necessarily prevailed might have precluded me from comprehending the object within your mission, especially as I had not previously digested my ideas on the subject, nor accurately examined the text of the Confederation. It were to be wished too, I think, that the application to Pennsylvania on the subject of the road could have been blended with that of the River. As it is, it will, I think, be best to refer it, after the example of Maryland, to the Executive. I beg you, Sir, to excuse the brevity which our hurry has imposed upon me. As soon as I have leisure, I will endeavour to make amends by a fuller communication on this subject.

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TO JAMES MONROE.

RICHMOND, 8th January, 1785.

DEAR SIR,—Yours of the 18th ultimo came to hand yesterday. The view which it gives of the operations of the Cabinet portends, I fear, a revival of those intrigues and contests of ambition which have more than once distracted and dishonoured the National Councils. Foreign appointments have generally been the parents of those mischiefs, and ought for that reason, when no other reasons oppose, to be rendered as unfrequent as may be.

The union between R. H. Lee and R. R. Livingston\* would

\* On the appointment of Mr. Jefferson to the Court of Spain.



have been among the last of my predictions, nor can I fathom the principle on which it is founded.

The policy of healing the variance between the United States and Great Britain is no doubt obvious; but I cannot enter into the suspicions entertained of hostile designs in the latter. Her internal situation renders them extremely improbable, and the affairs of Ireland, as I conceive, absolutely incredible. What could she hope for or aim at? If the late war was folly, a new one for the same object would be downright phrensy. Her ill-humour is the natural consequence of disappointed and disarmed ambition, and her disregard of the Treaty may, if not be justified, at least be accounted for by what has passed in the United States. Let both parties do what neither can deny its obligation to do, and the difficulty is at an end.

The contest with Spain has a more dangerous root. Not only the supposed interests, but the supposed rights of the parties are in direct opposition. I hope, however, that both parties will ponder the consequences before they suffer amicable negotiation to become abortive. The use of the Mississippi is given by nature to our Western Country, and no power on Earth can take it from them. Whilst we assert our title to it, therefore, with a becoming firmness, let us not forget that we cannot ultimately be deprived of it, and that, for the present, war is more than all things to be deprecated. Let us weigh well, also, the object and the price, not forgetting that the Atlantic States, &c., &c. . . . . I join in your wish that we had a better Cypher, but Richmond yields as few resources for amending ours as Trenton. I have not leisure myself, and can command the assistance of no other person.

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[Here the writer gives the same detail of the circumstances which prevented the passage of the Bill respecting British debts as is contained in his letter of the following day to Mr. Jefferson.]

It was unlucky that one of the two Bills thus lost should be that which will be most likely to involve our public character. Before this accident, we had passed the Bill for opening the

Potomac and a similar one for James River, together with a third, presenting to Gen<sup>l</sup> Washington a handsome portion of shares in each of the companies, and had taken some other measures for opening the commercial channel to the Western Waters. As I shall not be in Richmond to receive any letters which may be written hereafter, you will be so good as to address your future favors to Orange.

I am, dear sir, with sincerity, your friend and servant.

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TO THOMAS JEFFERSON.

RICHMOND. January 9th, 1785.

DEAR SIR,—My last was dated in Philadelphia, October 17th. I reached this place on the 14th day after that fixed for the meeting of the Assembly, and was in time for the commencement of business. Yesterday put an end to the tedious session. According to my promise, I subjoin a brief review of its most material proceedings.

An act for the establishment of Courts of Assize.

This act was carried through the House of Delegates against much secret repugnance, but without any direct and open opposition. It luckily happened that the latent opposition wanted both a mouth and a head. Mr. Henry had been previously elected Governor, and was gone for his family. From his conversation since, I surmise that his presence might have been fatal. The act is formed precisely on the English pattern, and is nearly a transcript from the bill originally penned in 1776 by Mr. Pendleton, except that writs sent blank from the Clerk of General Court are to issue in the district, but returned to General Court. In the Senate it became a consideration whether the Assize Courts ought not to be turned into so many Courts of independent and complete jurisdiction, and admitting an appeal only to the Court of Appeals. If the fear of endangering the bill had not checked the experiment, such a proposition would probably have been sent down to the House of Delegates,

where it would have been better relished by many than the Assize plan. The objections made to the latter were, that as it required the issues to be made up and the judgments to be awarded in the General Court, it was but a partial relief to suitors, and might render the service of double sets of lawyers necessary. The friends of the plan thought these inconveniences, as far as they were real, outweighed by the superior wisdom and uniformity of decisions incident to the plan; not to mention the difference in the frequency of appeals incident to the different plans. In order to leave as few handles as possible for cavil, the bill omitted all the little regulations which would follow of course, and will therefore need a supplement. To give time for this provision, as well as by way of collecting the mind of the public, the commencement of the law is made posterior to the next session of assembly. The places fixed for the Assize Courts are Northumberland Court House, Williamsburg, Accomack Court House, Suffolk, Richmond, Petersburg, Brunswick Court House, King and Queen Court House, Prince Edward Court House, Bedford Court House, Montgomery and Washington C<sup>t</sup> Houses alternately, Staunton, Charlottesville, Fredericksburg, Dumfries, Winchester, and Monongalia Court House. Besides the judicial advantages hoped from this innovation, we consider it as a means of reconciling to our Government the discontented extremities of the State.

An act for opening and extending the navigation of Potowmac river.

An act for do. do. of James River.

The subject of clearing these great rivers was brought forward early in the Session, under the auspices of General Washington, who had written an interesting private letter on it to Governor Harrison, which the latter communicated to the General Assembly. The conversation of the General, during a visit paid to Richmond in the course of the Session, still further impressed the magnitude of the object on sundry members. Shortly after his departure, a joint memorial from a number of Citizens of Virginia and Maryland, interested in the Potowmac, was presented to the Assembly, stating the practicability and importance of the work, and praying for an act of incorporation, and grant of

perpetual toll to the undertakers of it. A bill had been prepared at the same meeting which produced the memorial, and was transmitted to Richmond at the same time. A like memorial and bill went to Annapolis, where the Legislature of Maryland were sitting.

The Assembly here lent a ready ear to the project; but a difficulty arose from the height of the tolls proposed, the danger of destroying the uniformity essential in the proceedings of the two States by altering them, and the scarcity of time for negotiating with Maryland a bill satisfactory to both States. Short as the time was, however, the attempt was decided on, and the negotiation committed to General Washington himself. General Gates, who happened to be in the way, and Col. Blackburn, were associated with him. The latter did not act; the two former pushed immediately to Annapolis, where the sickness of General Gates threw the whole agency on General Washington. By his exertions, in concert with Committees of the two branches of the Legislature, an amendment of the plan was digested in a few days, passed through both houses in one day, with nine dissenting voices only, and despatched for Richmond, where it arrived just in time for the close of the Session. A corresponding act was immediately introduced, and passed without opposition.

The scheme declares that the subscribers shall be an incorporated body; that there shall be 500 shares, amounting to about 220,000 dollars, of which the States of Virginia and Maryland are each to take 50 shares; that the tolls shall be collected in three portions, at the three principal falls, and with the works vest as real estate in the members of the Company; and that the works shall be begun within one year and finished within ten years, under the penalty of entire forfeiture.

Previous to the receipt of the act from Annapolis, a bill on a different plan had been brought in and proceeded on for clearing James River. It proposed that subscriptions should be taken by Trustees, and, under their management, solemnly appropriated to the object in view; that they should be regarded as a loan to the State, should bear an interest of 10 per cent.,

and should entitle the subscriber to the double of the principal remaining undischarged at the end of a moderate period; and that the tolls to be collected should stand inviolably pledged for both principal and interest. It was thought better for the public to present this exuberant harvest to the subscribers than to grant them a perpetuity in the tolls. In the case of the Potowmac, which depended on another authority as well as our own, we were less at liberty to consider what would be best in itself. Exuberant, however, as the harvest appeared, it was pronounced by good judges an inadequate bait for subscriptions, even from those otherwise interested in the work, and on the arrival and acceptance of the Potowmac plan, it was found advisable to pass a similar one in favor of James River. The circumstantial variations in the latter are: 1. The sum to be aimed at in the first instance is 100,000 Dollars only. 2. The shares, which are the same in number with those of Potowmac, are reduced to 200 dollars each, and the number of public shares raised to 100. 3. The tolls are reduced to half of the aggregate of the Potowmac tolls. 4. In case the falls at this place, where alone tolls are to be paid, shall be first opened, the Company are permitted to receive the tolls immediately, and continue to do so till the lapse of ten years, within which the whole river is to be made navigable. 5. A right of pre-emption is reserved to the public on all transfers of shares. These acts are very lengthy, and having passed in all the precipitancy which marks the concluding stages of a session, abound, I fear, with inaccuracies.

In addition to these acts, joint resolutions have passed the Legislatures of Maryland and Virginia for clearing a road from the head of the Potowmac navigation to Cheat river, or if necessary to Monongalia, and 3,333 $\frac{1}{3}$  Dollars are voted for the work by each State.\* Pennsylvania is also to be applied to by the Governors of the two States for leave to clear a road through her jurisdiction, if it should be found necessary, from Potowmac to Yohogania; to which the Assembly here have

\* Jour., p. 91.

added a proposition to unite with Maryland in representing to Pennsylvania the advantages which will accrue to a part of her citizens from opening the proposed communication with the Sea, and the reasonableness of her securing to those who are to be at the expence the use of her waters as a thoroughfare to and from the Country beyond her limits, free from all imposts and restrictions whatever, and as a channel of trade with her citizens, free from greater imposts than may be levied on any other channel of importation.\* This Resolution did not pass till it was too late to refer it to General Washington's negotiations with Maryland. It now makes a part of the task allotted to the Commissioners who are to settle with Maryland the jurisdiction and navigation of Potowmac, below tide water. By another Resolution of this State, persons are to be forthwith appointed by the Executive to survey the upper parts of James River, the country through which a road must pass to the navigable waters of New River, and these waters down to the Ohio.† I am told by a member of the Assembly, who seems to be well acquainted both with the intermediate ground and with the western waters in question, that a road of 25 or 30 miles in length will link these waters with James River, and will strike a branch of the former which yields a fine navigation, and falls into the main stream of the Kenhawa below the only obstructions lying in this river down to the Ohio. If these be facts, James River will have a great superiority over Potowmac, the road from which to Cheat river is, indeed, computed by General Washington at 20 miles only, but he thinks the expence of making the latter navigable will require a continuation of the road to Monongalia, which will lengthen it to 40 miles. The road to Yohogania is computed by the General at 30 miles.

By another resolution, Commissioners are to be appointed to survey the ground for a canal between the waters of Elizabeth river and those of North Carolina, and in case the best course for such a canal shall require the concurrence of that State, to concert a joint plan and report the same to the next session of

\* Jour., p. 101.

† Idem, p. 102.

Assembly.\* Besides the trade which will flow through this channel from North Carolina to Norfolk, the large district of Virginia watered by the Roanoake will be doubled in its value by it.

An act vesting in G. Washington a certain interest in the Companies for opening James and Potowmac rivers.

The Treasurer is by this act† directed to subscribe 50 shares in the Potowmac and 100 shares in the James River Companies, which shall vest in General Washington and his heirs. This mode of adding some substantial to the many honorary rewards bestowed on him was deemed least injurious to his delicacy, as well as least dangerous as a precedent. It was substituted in place of a direct pension, urged on the House by the indiscreet zeal of some of his friends. Though it will not be an equivalent succour in all respects, it will save the General from subscriptions which would have oppressed his finances; and if the schemes be executed within the period fixed, may yield a revenue for some years before the term of his.‡ At all events, it will demonstrate the grateful wishes of his Country, and will promote the object which he has so much at heart. The earnestness with which he espouses the undertaking is hardly to be described, and shews that a mind like his, capable of great views, and which has long been occupied with them, cannot bear a vacancy; and surely he could not have chosen an occupation more worthy of succeeding to that of establishing the political rights of his Country than the patronage of works for the extensive and lasting improvement of its natural advantages; works which will double the value of half the lands within the Commonwealth, will extend its commerce, link with its interests those of the Western States, and lessen the emigration of its citizens by enhancing the profitableness of situations which they now desert in search of better.

An act to discharge the people of this Commonwealth from one half of the tax for the year 1785.

Our successive postponements had thrown the whole tax of 1784 on the year 1785. The remission, therefore, still leaves three halves to be collected. The plentiful crops

\* Jour., p. 102.

† Jour., p. 105-6-7.

‡ Sic in MS.

on hand both of Corn and Tobacco, and the price of the latter, which is vibrating on this river between 36s. and 40s., seem to enable the country to bear the burden. A few more plentiful years, with steadiness in our councils, will put our credit on a decent footing. The payments from this State to the Continental treasury between April, 1783, and November, 1784, amount to £123,202 11s. 1½d., Virginia currency. The printed report herewith inclosed will give you a rude idea of our finances.

An act giving James Rumsey the exclusive privilege of constructing and navigating certain boats for a limited time.

J. Rumsey, by a memorial to the last session, represented that he had invented a mechanism by which a boat might be worked with little labor, at the rate of from 25 to 40 miles a day, against a stream running at the rate of 10 miles an hour, and prayed that the disclosure of his invention might be purchased by the public. The apparent extravagance of his pretensions brought a ridicule upon them, and nothing was done. In the recess of the Assembly, he exemplified his machinery to General Washington and a few other gentlemen, who gave a certificate of the reality and importance of the invention, which opened the ears of the Assembly to a second memorial. The act gives a monopoly for ten years, reserving a right to abolish it at any time by paying £10,000. The inventor is soliciting similar acts from other States, and will not, I suppose, publish the secret till he either obtains or despairs of them.

An act for punishing certain offences injurious to the tranquility of this Commonwealth.

This act authorises the surrender of a citizen to a foreign Sovereign within whose acknowledged jurisdiction the citizen shall commit a crime, of which satisfactory proof shall be exhibited to Congress, and for which, in the judgment of Congress, the law of nations exacts such surrender. This measure was suggested by the danger of our being speedily embroiled with the nations contiguous to the United States, particularly the Spaniards, by the licentious and predatory spirit of some of our western people. In several instances gross outrages are said to have been already practiced. The measure



was warmly patronized by Mr. Henry and most of the forensic members, and no less warmly opposed by the Speaker and some others. The opponents contended that such surrenders were unknown to the law of nations, and were interdicted by our declaration of rights. Vattel, however, is express as to the case of Robbers, murderers, and incendiaries. Grotius quotes various instances in which great offenders have been given up by their proper Sovereigns to be punished by the offended Sovereigns. Puffendorf only refers to Grotius. I have had no opportunity of consulting other authorities.

With regard to the Bill of rights, it was alledged to be no more, or, rather, less violated by considering crimes committed against other laws as not falling under the notice of our own, and sending our citizens to be tried where the cause of trial arose, than to try them under our own laws without a jury of the vicinage, and without being confronted with their accusers or witnesses; as must be the case, if they be tried at all for such offences under our own laws. And to say that such offenders should neither be given up for punishment, nor be punished within their own Country, would amount to a licence for every aggression, and would sacrifice the peace of the whole community to the impunity of the worst members of it. The necessity of a qualified interpretation of the bill of rights was also inferred from the law of the Confederacy which requires the surrender of our citizens to the laws of other States, in cases of treason, felony, or other high misdemeanors. The act provides, however, for a domestic trial in cases where a surrender may not be justified or insisted upon, and in cases of aggressions on the Indians.

An act for incorporating the Protestant Episcopal Church.

This act declares the Ministers and Vestries, who are to be triennially chosen in each parish, a body corporate, enables them to hold property not exceeding the value of £800 per annum, and gives sanction to a Convention, which is to be composed of the clergy and a lay deputy from each parish, and is to regulate the affairs of the Church. It was understood by the House of Delegates that the Convention was to consist of two laymen for

each clergyman, and an amendment was received for that express purpose. It so happened that the insertion of the amendment did not produce that effect, and the mistake was never discovered till the bill had passed and was in print. Another circumstance still more singular is, that the act is so construed as to deprive the vestries of the uncontroled right of electing Clergymen, unless it be referred to them by the canons of the Convention, and that this usurpation actually escaped the eye both of the friends and adversaries of the measure, both parties taking the contrary for granted throughout the whole progress of it. The former, as well as the latter, appear now to be dissatisfied with what has been done, and will probably concur in a revision, if not a repeal of the law. Independently of these oversights, the law is in various points of view exceptionable. But the necessity of some sort of incorporation for the purpose of holding and managing the property of the Church could not well be denied, nor a more harmless modification of it now obtained. A negative of the bill, too, would have doubled the eagerness and the pretexts for a much greater evil, a general Assessment, which, there is good ground to believe, was parried by this partial gratification of its warmest votaries.

A Resolution for a legal provision for the "teachers of the Christian Religion" had early in the session been proposed by Mr. Henry, and, in spite of all the opposition that could be mustered, carried by 47 against 32 votes. Many petitions from below the blue ridge had prayed for such a law; and though several from the Presbyterian laity beyond it were in a contrary stile, the Clergy of that sect favored it. The other sects seemed to be passive. The Resolution lay some weeks before a bill was brought in, and the bill some weeks before it was called for; after the passage of the incorporating act it was taken up, and, on the third reading, ordered by a small majority to be printed for consideration. The bill, in its present dress, proposes a tax of blank per cent. on all taxable property, for support of Teachers of the Christian Religion. Each person when he pays his tax is to name the society to which he dedicates it,

and in case of refusal to do so, the tax is to be applied to the maintenance of a school in the County. As the bill stood for some time, the application in such cases was to be made by the Legislature to pious uses. In a committee of the whole it was determined, by a majority of 7 or 8, that the word "Christian" should be exchanged for the word "Religious." On the report to the House, the pathetic zeal of the late Governor Harrison gained a like majority for reinstating discrimination. Should the bill pass into a law in its present form, it may and will be easily eluded. It is chiefly obnoxious on account of its dishonorable principle and dangerous tendency.

The subject of the British debts underwent a reconsideration on the motion of Mr. Jones. Though no answer had been received from Congress to the Resolutions passed at the last session, a material change had evidently taken place in the mind of the Assembly, proceeding in part from a more dispassionate view of the question, in part from the intervening exchange of the ratifications of the Treaty. Mr. Henry was out of the way. His previous conversation, I have been told, favored the reconsideration; the Speaker, the other champion at the last session against the Treaty, was at least half a proselyte. The proposition rejected interest during the period of blank, and left the periods of payment blank. In this form it was received with little opposition, and by a very great majority. After much discussion and several nice divisions, the first blank was filled up with the period between the 19 of April, 1775, and the 3d of March, 1783, the commencement and cessation of hostilities; and the second, with seven annual payments. Whilst the bill was depending, some proceedings of the Glasgow Merchants were submitted to the House of Delegates, in which they signified their readiness to receive their debts in four annual payments, with immediate security and summary recoveries at the successive periods, and were silent as to the point of interest. Shortly after were presented memorials from the Merchants of this Town and Petersburg, representing the advantage which a compliance with the Glasgow overtures would give the foreign over the domestic creditors. Very little attention seemed to be

paid by the House to the overtures, tho', as the Treaty was not to be literally pursued, the shadow of assent from the other party was worthy of being attended to. In the Senate, the bill met with a diversity of opinions. By a majority of one voice only an attempt to put all our domestic debts on the same footing with British debts was lost. Whether this was sincere, or a side blow at the bill, I am unable to say. An attempt was next made to put on the same footing all those who left this Country and joined the other side, or who remained within the British territories for one year at any time since the 19th April, 1775, or who refused a tender of paper money before January, 1779. These discriminations were almost unanimously disagreed to by the House of Delegates. The Senate insisted. The former proposed a conference. The Senate concurred. The Conference produced a proposition from the House of Delegates, to which the Senate assented; but before the assent was notified, an incident happened which has left the bill in a very singular situation.

The delays attending this measure had spun it out to the day preceding the one prefixed for a final adjournment. Several of the members went over to Manchester in the evening, with an intention, it is to be presumed, of returning the next morning. The severity of the night rendered their passage back the next morning impossible. Without them there was no house. The impatience of the members was such as might be supposed. Some were for stigmatizing the absentees and adjourning. The rest were some for one thing, some for another. At length it was agreed to wait until the next day. The next day presented the same obstructions in the river. A canoe was sent over for enquiry by the Manchester party, but they did not chuse to venture themselves. The impatience increased; warm resolutions were agitated. They ended, however, in an agreement to wait one day more. On the morning of the third day the prospect remained the same. Patience could hold out no longer, and an adjournment to the last day of March ensued. The question to be decided is, whether a bill which has passed the House of Delegates, and been assented to by the Senate, but

not sent down to the House of Delegates, nor enrolled, nor examined, nor signed by the two Speakers, and consequently not of record, is or is not a law? A bill for the better regulation of the customs is in the same situation.

After the passage of the Bill for British debts through the House of Delegates, a bill was introduced for liquidating the depreciated payments into the Treasury, and making the debtors liable for the deficiency. A foresight of this consequential step had shewn itself in every stage of the first bill. It was opposed by Governor Harrison principally, and laid asleep by the refusal of interested members to vote on the question, and the want of a quorum without them.

Among the abortive measures may be mentioned, also, a proposition to authorise the collection of the impost by Congress as soon as the concurrence of twelve States should be obtained. Connecticut had set the example in this project. The proposition was made by the Speaker, and supported by the late Governor. It was disagreed to by a very large majority on the following grounds: 1. The appearance of a schism in the Confederacy which it would present to foreign eyes. 2. Its tendency to combinations of smaller majorities of the States. 3. The channel it would open for smuggling; goods imported into Rhode Island in such case might not only be spread by land through the adjacent States, but if slipped into any neighbouring port, might thence be carried, duty-free, to any part of the associated States. 4. The greater improbability of a union of twelve States on such new ground than of the conversion of Rhode Island to the old one. 5. The want of harmony among the other States which would be betrayed by the miscarriage of such an experiment, and the fresh triumph and obstinacy which Rhode Island would derive from it.

The French vice Consul in this State has complained to the Assembly that the want of legal power over our Sheriffs, Goalers, and prisons, both renders his decrees nugatory, and exposes his person to insults from dissatisfied litigants. The Assembly have taken no step whatever on the subject, being at a loss to know what ought to be done, in compliance either with

general usage or that of France in particular. I have often wondered that the proposed Convention between France and the United States for regulating the consular functions has never been executed. The delay may prove unfriendly both to their mutual harmony and their commerce.

Mr. Henry was elected successor to Mr. Harrison without competition or opposition. The victims to the article requiring a triennial removal of two counsellors were Merriwether Smith and General Christian. Young Mr. Roane and Mr. Miles Selden take their places. Mr. Short's place is filled by Mr. Joseph Jones.

Nothing has passed during the session concerning an amendment of the State Constitution. The friends of the undertaking seem to be multiplying rather than decreasing. Several Petitions from the Western side of the Blue ridge appeared in favor of it, as did some from the Western side of the Alleghany praying for a separate Government. The latter may be considered all of them as the children of Arthur Campbell's ambition. The Assize Courts and the opening of our rivers are the best answers to them.

The Revisal has but just issued from the press. It consists of near 100 folio pages in a small type. I shall send you six copies by the first opportunity. £500 was voted at the Spring Session to each of the acting members of the Committee, but no fund having been provided for payment, no use could be made of the warrants. I drew yours, however, and carried them up to Orange, where they now lye. A vote of this Session has provided a fund which gives them immediate value. As soon as I get home I shall send the dead warrants to Mr. Nich<sup>s</sup> Lewis, who may exchange them for others, and draw the money from the Treasury.

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## TO EDMUND RANDOLPH.

ORANGE, March 10th. 1785.

MY DEAR SIR,—Your favor of the 12th ult. came safe to hand through the conveyance of Capt. Barber, together with the several articles inclosed. The letter from Mr. Jefferson speaks of the state of things on the 11th of November on the other side of the Atlantic as follows: "The lamp of war is kindled here, not to be extinguished but by torrents of blood. The firing of the Dutch on an Imperial vessel going down the Scheld has been followed by the departure of the Imperial Minister from the Hague without taking leave. Troops are in motion on both sides towards the Scheld, but probably nothing will be done till the Spring. This Court has been very silent as to the part they will act. Yet their late Treaty with Holland, as well as a certainty that Holland would not have proceeded so far without assurance of aid, furnish sufficient ground to conclude they will side actively with the Republic. The King of Prussia, it is believed, will do the same. He has patched up his little disputes with Holland and Dantzic. The prospect is, that Holland, France, Prussia, and the Porte, will be engaged against the two Imperial Courts. England, I think, will remain neutral. Their hostility has attained an incredible height. Notwithstanding this, they expect to keep our trade and cabotage to themselves by the virtue of their proclamation. They have no idea that we can so far act in concert as to establish retaliating measures. Their Irish affairs will puzzle them extremely. Should things get into confusion there, perhaps they will be more disposed to wish a friendly connection with us. The Congress which met on the 25th of October consisted of deputies from 8 Counties only. They came to resolutions on the reform of Parliament and adjourned to the 20th of January, recommending to the other Counties to send deputies then."

I learn from an intelligent person lately from Kentucky, that the Convention there produced nothing but a statement of grievances and a claim of redress. The topic of independence was not regularly brought forward at all, and scarcely agitated

without doors. It is supposed that the late extension of the tax on patents, which, as it stood before, is on the list of grievances, will turn the scale in favor of that measure.

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TO MARQUIS FAYETTE.

ORANGE, March 20th, 1785.

MY DEAR SIR,—Your favour of the 15th, continued on the 17th of December, came very slowly, but finally safe to hand. The warm expressions of regard which it contains are extremely flattering to me; and the more so as they so entirely correspond with my own wishes for everything which may enter into your happiness.

You have not erred in supposing me out of the number of those who have relaxed their anxiety concerning the navigation of the Mississippi. If there be any who really look on the use of that river as an object not to be sought or desired by the United States, I cannot but think they frame their policy on both very narrow and very delusive foundations. It is true, if the States which are to be established on the waters of the Mississippi were to be viewed in the same relation to the Atlantic States as exists between the heterogeneous and hostile Societies of Europe, it might not appear strange that a distinction, or even an opposition of interests, should be set up. But is it true that they can be viewed in such a relation? Will the settlements which are beginning to take place on the branches of the Mississippi be so many distinct societies, or only an expansion of the same society? So many new bodies, or merely the growth of the old one? Will they consist of a hostile or a foreign people, or will they not be bone of our bone and flesh of our flesh? Besides the confederal band within which they will be comprehended, how much will the connection be strengthened by the ties of friendship, of marriage, and consanguinity? ties which, it may be remarked, will be even more numerous between the ultramontane and the Atlantic States than between



any two of the latter. But viewing this subject through the medium least favorable to my ideas, it still presents to the United States sufficient inducements to insist on the navigation of the Mississippi. Upon this navigation depends essentially the value of that vast field of territory which is to be sold for the benefit of the common Treasury; and upon the value of this territory, when settled, will depend the portion of the public burdens of which the old States will be relieved by the new. Add to this the stake which a considerable proportion of those who remain in the old States will acquire in the new by adventures in land, either on their own immediate account or that of their descendants.

Nature has given the use of the Mississippi to those who may settle on its waters, as she gave to the United States their independence. The impolicy of Spain may retard the former, as that of Great Britain did the latter. But as Great Britain could not defeat the latter, neither will Spain the former. Nature seems on all sides to be reasserting those rights which have so long been trampled on by tyranny and bigotry. Philosophy and Commerce are the auxiliaries to whom she is indebted for her triumphs. Will it be presumptuous to say, that those nations will shew most wisdom, as well as acquire most glory, who, instead of forcing her current into artificial channels, endeavour to ascertain its tendency and to anticipate its effects? If the United States were to become parties to the occlusion of the Mississippi, they would be guilty of treason against the very laws under which they obtained and hold their national existence.

The repugnance of Spain to an amicable regulation of the use of the Mississippi is the natural offspring of a system which everybody but herself has long seen to be as destructive to her interest as it is dishonorable to her character. An extensive desert seems to have greater charms in her eye than a flourishing but limited empire; nay, than an extensive, flourishing empire. Humanity cannot suppress the wish that some of those gifts which she abuses were placed by just means in hands that would turn them to a wiser account. What a metamorphosis

would the liberal policy of France work in a little time on the Island of New Orleans? It would to her be a fund of as much real wealth as Potosi has been of imaginary wealth to Spain. It would become the Grand Cairo of the new World.

The folly of Spain is not less displayed in the means she employs than in the ends she prefers. She is afraid of the growth and neighbourhood of the United States, because it may endanger the tranquility of her American possessions; and to obviate this danger she proposes to shut up the Mississippi. If her prudence bore any proportion to her jealousy, she would see that if the experiment were to succeed it would only double the power of the United States to disturb her, at the same time that it provoked a disposition to exert it; she would see that the only offensive weapon which can render the United States truly formidable to her is a navy, and that if she could keep their inhabitants from crossing the Appalachian ridge, she would only drive to the Sea most of those swarms which would otherwise direct their course to the Western Wilderness. She should reflect, too, that as it is impossible for her to destroy the power which she dreads, she ought only to consult the means of preventing a future exertion of it. What are those means? Two, and two only. The first is a speedy concurrence in such a treaty with the United States as will produce a harmony, and remove all pretexts for interrupting it. The second, which would in fact result from the first, consists in favouring the extension of their settlements. As these become extended, the members of the Confederacy must be multiplied, and along with them the wills which are to direct the machine. And as the wills multiply, so will the chances against a dangerous union of them. We experience every day the difficulty of drawing thirteen States into the same plans. Let the number be doubled, and so will the difficulty. In the multitude of our Counsellors, Spain may be told, lies her safety.

If the temper of Spain be unfriendly to the views of the United States, they may certainly calculate on the favorable sentiments of the other powers of Europe, at least of all such of them as favored our Independence. The chief advantages expected

in Europe from that event center in the revolution it was to produce in the commerce between the new and the old World. The commerce of the United States is advantageous to Europe in two respects: first, by the unmanufactured produce which they export; secondly, by the manufactured imports which they consume. Shut up the Mississippi and discourage the settlements on its waters, and what will be the consequence? First, a greater quantity of subsistence must be raised within the ancient settlements, the culture of tobacco, indigo, and other articles for exportation, be proportionably diminished, and their price proportionably raised on the European consumer. Secondly, the hands without land at home being discouraged from seeking it where alone it could be found, must be turned in a great degree to manufacturing, our imports proportionably diminished, and a proportional loss fall on the European manufacturer. Establish the freedom of the Mississippi, and let our emigrations have free course, and how favorably for Europe will the consequence be reversed? First, the culture of every article for exportation will be extended, and the price reduced in favor of her consumers. Secondly, our people will increase without an increase of our manufacturers, and in the same proportion will be increased the employment and profit of hers.

These consequences would affect France, in common with the other commercial nations of Europe; but there are additional motives which promise the United States her friendly wishes and offices. Not to dwell on the philanthropy which reigns in the heart of her Monarch, and which has already adorned his head with a crown of laurels, he cannot be inattentive to the situation into which a controversy between his antient and new allies would throw him, nor to the use which would be made of it by his watchful adversary. Will not all his councils, then, be employed to prevent this controversy; will it not be seen, as the pretensions of the parties directly interfere, it can be prevented only by a dissuasive interposition on one side or the other; that on the side of the United States such an interposition must, from the nature of things, be unavailing; or if their pretensions for a moment be lulled, they would but awake with

fresh energy, and, consequently, that the mediating influence of France ought to be turned wholly on the side of Spain? The influence of the French Court over that of Spain is known to be great. In America it is supposed to be greater than perhaps it really is. The same may be said of the intimacy of the Union between the two nations. If this influence should not be exerted, this intimacy may appear to be the cause. The United States consider Spain as the only favorite of their Ally of whom they have ground to be jealous; and whilst France continues to hold the first place in their affections, they must at least be mortified at any appearance that the predilection may not be reciprocal.

The Mississippi has drawn me into such length, that I fear you will have little patience left for anything else. I will spare it as much as possible. I hear nothing from Congress except that Mr. Jay has accepted his appointment, and that no successor has yet been chosen to Doctor Franklin. Our Legislature made a decent provision for remittances due for 1785 from Virginia to the Treasury of the United States, and very extensive provision for opening our inland navigation. They have passed an act vesting in General Washington a considerable interest in each of the works on James River and Potowmac, but with an honorary rather than lucrative aspect. Whether he will accept it or not I cannot say. I meant to have sent you a copy of the Act, but have been disappointed in getting one from Richmond. They also passed an act for reforming our juridical System, which promises salutary effects; and did not pass the act for the corrupting our Religious system. Whether they passed an act for paying British debts or not they do not know themselves. Before the bill for that purpose had got through the last usual forms, the want of members broke up the House. It remains, therefore, in a situation which has no precedent, and without a precedent lawyers and legislators are as much at a loss as a mariner without his compass.

The subjects in which you interested yourself were all referred to the Executive with power to do, what I hope they will do better than the Assembly. I understood before I left

Richmond that you would receive officially from the Governor a copy of the Resolutions which I sent you. I received a letter a few days ago from Mr. Mereer, written in the bosom of wedlock at Mr. Sprigg's; another at the same time from Monroe, who was well at New York. I have nothing to say of myself but that I have exchanged Richmond for Orange, as you will have seen by the above date; that I enjoy a satisfactory share of health; that I spend the chief of my time in reading, and the chief of my reading, on Law; that I shall hear with the greatest pleasure of your being far better employed; and that I am, with most affectionate esteem, your obt friend and serv<sup>t</sup>.

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TO JAMES MONROE.

ORANGE, March 21st, 1785.

DEAR SIR,— \* \* \* \* \*

I do not wonder at the paragraph which you have copied from Mr. Jay's letter to Congress. His feelings are such as every one must possess who is worthy of the station which he holds. If the Office of foreign affairs be a proper one, and properly filled, a reference of all foreign despatches to it in the first instance is so obvious a course, that any other disposition of them by Congress seems to condemn their own establishment, to affront the Minister in office, and to put on him a label of caution against that respect and confidence of the Ministers of foreign powers which are essential to his usefulness. I have always conceived the several ministerial departments of Congress to be provisions for aiding their counsels as well as executing their resolutions, and that consequently, whilst they retain the right of rejecting the advice which may come from either of them, they ought not to renounce the opportunity of making use of it. The foreign department is, I am sensible, in several respects the most difficult to be regulated, but I cannot think the question arising on Mr. Jay's letter is to be numbered among the difficulties. The practice of Congress during the adminis-

tration of his predecessor was never fixed, and frequently improper, and I always suspected that his indifference to the place resulted, in part at least, from the mortifications to which this unsteadiness subjected him.

You will not be disappointed at the barrenness which is hence to mark the correspondence on my part. In the recess of the Legislature few occurrences happen which can be interesting, and, in my retired situation, few even of these fall within my knowledge. The situation of Mr. Jones will probably make his correspondence a more productive one. He has probably already mentioned to you the advances which Kentucky was said to be making towards an independent Government. It is certain that a Convention has been held, which might have been set on foot with an eye to such an event; but I learn from an intelligent person lately from that district, that its deliberations turned altogether on the pressure of certain acts of the General Assembly, and terminated in a vote of application for redress. He supposes, however, that the late extension of the tax on patents will give a successful handle to those who wish to accelerate a separation. This tax as it stood before was in the first class of their grievances.

You will, I expect, receive this from the hands of Mr. Burnley, a young gentleman of my neighborhood, who has passed with reputation thro' Mr. Wythe's School, and has since taken out his forensic diploma. Your civilities to him will be well placed, and will confer an obligation on me. If Col. Grayson has recovered from the gout, which, I hear, arrested him in the moment of his intended departure, and is with you, be so kind as to make my best respects to him.

I am, dear sir, with sincere regard and esteem, your obedient friend and serv.

TO JAMES MONROE.

ORANGE, April 12th, 1785.

DEAR SIR,— \* \* \* \* \*

The appointment of Mr. Adams to the Court of Great Britain is a circumstance which does not contradict my expectations; nor can I say that it displeases me. Upon Geographical considerations New England will always have one of the principal appointments, and I know of no individual from that quarter who possesses more of their confidence, or would possess more of that of the other States; nor do I think him so well fitted for any Court of equal rank as that of London. I hope it has removed all obstacles to the establishment of Mr. Jefferson at the Court of France.

Will not Congress soon take up the subject of Consular arrangements? I should suppose them at least of equal moment at present with some of the higher appointments which are likely to occupy them. Our friend Mr. Maury is waiting, with a very inconvenient suspension of his other plans, the event of the offer he has made of his services. I find he considers Ireland as the station next to be desired after that of England. He conceives, and I believe very justly, that the commercial intercourse between that Country and this will be very considerable, and merits our particular cultivation.

I suppose, from your silence on the subject, that the Western posts are still in the hands of Great Britain. Has the subject of the vacant lands to be disposed of been revived? What other measures are on foot or in contemplation for paying off the public debts? What payments have been made of late into the public Treasury? It is said here that Massachusetts is taking measures for urging Rhode Island into the Impost, or rendering the Scheme practicable without her concurrence. Is it so?

How many of the States have agreed to change the 8th Article of the Confederation? The Legislature of this State passed a law for complying with the provisional Act of Congress for executing that article as it now stands; the operation of which

confirms the necessity of changing the article. The law requires, as the Act of Congress does among other things, a list of the Houses. If the list does not discriminate the several kinds of Houses, how can Congress collect from it the value of the *improvements*, how do justice to all their constituents? And how can a discrimination be made in this country, where the variety is so infinite and so unsusceptible of description? If Congress govern themselves by number alone, this Country will certainly appeal to a more accurate mode of carrying the present rule of the confederation into practice. The average value of the improvements in Virginia is not one-fourth, perhaps not one-tenth, of that of the improvements in Pennsylvania or New England. Compare this difference with the proportion between the value of improvements and that of the soil, and what an immense loss shall we be taxed with? The number of buildings will not be a less unjust rule than the number of acres for estimating the respective abilities of the States.

The only proceeding of the late Session of Assembly which makes a noise through the Country is that which relates to a General Assessment. The Episcopal people are generally for it, though I think the zeal of some of them has cooled. The laity of the other sects are equally unanimous on the other side. So are all the Clergy, except the Presbyterian, who seem as ready to set up an establishment which is to take them in as they were to pull down that which shut them out. I do not know a more shameful contrast than might be found between their memorials on the latter and former occasion.

In one of your letters received before I left Richmond you expressed a wish for a better cypher. Since my return to Orange I have been able to get one made out, which will answer every purpose. I will either enclose it herewith or send it by the gentleman who is already charged with a letter for you. I wish much to throw our correspondence into a more regular course. I would write regularly every week if I had a regular conveyance to Fredericksburg. As it is, I will write as often as I can find conveyances. The business of this neighborhood which used to go to Fredericksburg is in a great measure



turned towards Richmond, which is too circuitous a channel. Opportunities in every direction, however, will be henceforward multiplied by the advance of the season. If you are not afraid of too much loading the mail, I could wish you to enclose in your letters the last N. Y. or Philadelphia paper.

I am, dear Sir, yours most sincerely.

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TO THOMAS JEFFERSON.

ORANGE, April 27th. 1785.

DEAR SIR,—I have received your two favors of Nov<sup>r</sup> 11th and December 8th. Along with the former I received the two pamphlets on animal magnetism and the last aeronautic expedition, together with the phosphoretic matches. These articles were a great treat to my curiosity. As I had left Richmond before they were brought thither by Col. Le Maire, I had no opportunity of attending myself to your wishes with regard to him; but I wrote immediately to Mr. Jones, and desired him to watch over the necessities of Le Maire. He wrote me for answer that the Executive, though without regular proof of his claims, were so well satisfied from circumstances of the justice of them, that they had voted him £150 for his relief 'till the Assembly could take the whole into consideration. This information has made me easy on the subject, though I have not withdrawn from the hands of Mr. Jones the provisional resource.

I thank you much for your attention to my literary wants. All the purchases you have made for me are such as I should have made for myself with the same opportunities. You will oblige me by adding to them the Dictionary, in 13 vol., 4<sup>o</sup>, by Felice and others. Also, de Thou, in French. If the utility of Moreri be not superseded by some better work, I should be glad to have him, too. I am afraid, if I were to attempt a catalogue of my wants, I should not only trouble you beyond measure, but

exceed the limits which other considerations ought to prescribe to me. I cannot, however, abridge the commission you were so kind as to take on yourself in a former letter, of procuring me from time to time such books as may be either "old and curious, or new and useful." Under this description will fall those particularized in my former letters, to wit: Treatises on the ancient or modern Federal Republics, on the Law of Nations, and the History, natural and political, of the new World; to which I will add such of the Greek and Roman authors, where they can be got very cheap, as are worth having, and are not on the common list of school classics. Other books which particularly occur are the translation (French) of the historians of the Roman Empire during its decline, by —; Pascal's provincial letters; Don Ulloa in the original; Linnaeus' best edition; Ordonnances Marines; Collection of Tracts in French on the economies of different nations, I forget the full title. It is much referred to by Smith on the Wealth of Nations. I am told a Mons<sup>r</sup> Amelot has lately published his travels into China, which, if they have any merit, must be very entertaining. Of Buffon, I have his original work of 31 vols., 10 vols. of supplement, and 16 vols. on birds. I shall be glad of the continuation as it may from time to time be published.

I am so pleased with the new invented lamp that I shall not grudge two guineas for one of them. I have seen a pocket compass of somewhat larger diameter than a watch, and which may be carried in the same way. It has a spring for stopping the vibration of the needle when not in use. One of these would be very convenient in case of a ramble into the Western country. In my walks for exercise or amusement objects frequently present themselves which it might be matter of curiosity to inspect, but which it is difficult or impossible to approach. A portable glass would consequently be a source of many little gratifications. I have fancied that such an one might be fitted into a case without making it too heavy. On the outside of the tube might be engraved a scale of inches, &c. If such a project could be executed for a few guineas, I should be willing

to submit to the price; if not, the best substitute, I suppose, will be a pocket telescope, composed of several tubes so constructed as to slide the lesser into the greater.

I should feel great remorse at troubling you with so many requests if your kind and repeated offers did not stifle it in some measure. Your proposal for my replacing here advances for me without regard to the exchange is liable to no objection, except that it will probably be too unequal in my favour. I beg that you will enable me as much as you can to keep these little matters balanced.

The papers from Le Grand were sent, as soon as I got them, to Mr. Jones, with a request that he would make the use of them which you wished me to do.

Your remarks on the tax on transfers of land in a general view appear to me to be just, but there were two circumstances which gave a peculiarity to the case in which our law adopted it. One was, that the tax will fall much on those who are evading their quotas of other taxes by removing to Georgia and Kentucky; the other, that as such transfers are more frequent among those who do not remove in the Western than the Eastern part of the Country, it will fall heaviest where direct taxes are least collected. With regard to the tax in general on law proceedings, it cannot, perhaps, be justified, if tried by the strict rule which proportions the quota of every man to his ability; time, however, will gradually in some measure equalize it, and if it be applied to the support of the Judiciary establishment, as was the ultimate view of the periods of the tax, it seems to square very well with the Theory of taxation.

The people of Kentucky had lately a Convention, which it was expected would be the mother of a separation. I am informed they proceeded no farther than to concert an address to the Legislature on some points in which they think the laws bear unequally upon them. They will be ripe for that event, at least as soon as their interest calls for it. There is no danger of a concert between them and the Counties West of the Alleghany, which we mean to retain. If the latter embark in a scheme for independence, it will be on their own bottom.

They are more disunited in every respect from Kentucky than from Virginia.

I have not learnt with certainty whether General Washington will accept or decline the shares voted him by the Assembly in the companies for opening our rivers. If he does not chuse to take to himself any benefit from the donation, he has, I think, a fine opportunity at once of testifying his disinterested purposes, of shewing his respect for the Assembly, and of rendering a service to his Country. He may accept the gift so far as to apply it to the scheme of opening the rivers, and may then appropriate the revenue which it is hereafter to produce to some patriotic establishment. I lately dropped a hint of this sort to one of his friends, and was told that such an idea had been suggested to him. The private subscriptions for Potowmac, I hear, amount to £10,000 Sterling. I cannot discover that those for James River deserve mention, or that the undertaking is pushed with any spirit. If those who are most interested in it let slip the present opportunity, their folly will probably be severely punished for the want of such another. It is said the undertaking on the Susquehannah by Maryland goes on with great spirit and expectations. I have heard nothing of Rumsey or his boats since he went into the Northern States. If his machinery for stemming the current operates on the water alone, as is given out, may it not supply the great desideratum for perfecting the balloons?

I understand that Chase and Jenifer on the part of Maryland, Mason and Henderson on the part of Virginia, have had a meeting on the proposition of Virginia for settling the navigation and jurisdiction of Potowmac below the falls, and have agreed to report to the two Assemblies the establishment of a concurrent jurisdiction on that river and Chesapeake. The most amicable spirit is said to have governed the negociation.

The Bill for a general Assessment has produced some fermentation below the mountains, and a violent one beyond them. The contest at the next session on this question will be a warm and precarious one. The port bill will also undergo a fiery trial. I wish the Assize Courts may not partake of the dan-

ger. The elections, as far as they have come to my knowledge, are likely to produce a great proportion of new members. In Albemarle, young Mr. Fry has turned out Mr. Carter. The late Governor Harrison, I hear, has been baffled in his own county, but meant to be a Candidate in Surry, and in case of a rebuff there, to throw another die for the borough of Norfolk. I do not know how he construes the doctrine of residence. It is surmised that the machinations of Tyler, who fears a rivalry for the Chair, are at the bottom of his difficulties. Arthur Lee is elected in Prince William. He is said to have paved the way by promises to upset the port bill, which is obnoxious to Dumfries, and to prevent the removal of the Assize Court from this town to Alexandria.

I received a letter from the Marquis Fayette, dated on the eve of his embarkation, which has the following paragraph: "I have much conferred with the General upon the Potowmac system. Many people think the navigation of the Mississippi is not an advantage, but it may be the excess of a very good thing, viz: the opening of your rivers. I fancy it has not changed your opinion, but beg you will write me on the subject; in the meanwhile I hope Congress will act coolly and prudently by Spain, who is such a fool that allowances must be made." It is unlucky that he should have left America with such an idea as to the Mississippi. It may be of the worst consequence, as it is not wholly imaginary, the prospect of extending the Commerce of the Atlantic States to the Western waters having given birth to it. I cannot believe that many minds are tainted with so illiberal and short-sighted a policy. I have thought it not amiss to write the Marquis according to the request of his letter, and have stated to him the motives and obligations which must render the United States inflexible on the subject of the Mississippi, the folly of Spain in contesting it, and our expectations from the known influence of France over Spain, and her friendly dispositions toward the United States. It is but justice to the Marquis to observe that, in all our conversations on the Mississippi, he expressed with every mark of sincerity a zeal for our claims and a pointed dislike to the National Character

and policy of Spain; and that if his zeal should be found to abate, I should construe it to be the effect of a supposed revolution in the sentiments of America.

This would have been of somewhat earlier date, but I postponed it that I might be able to include some information relative to your Nephews. My last informed you that your eldest was then with Mr. Maury. I was so assured by Mr. Underwood, from his neighborhood, who I supposed could not be mistaken; I afterwards discovered that he was so, but could get no precise information 'till within a few days. One of my brothers being called into that part of country by business, I wrote to Mrs. Carr, and got him to wait on her. The answer with which I have been favored imports that "her eldest son was taken last fall with a fever, which, with repeated relapses, kept him extremely weak and low 'till about the 1st of January, from which time he was detained at home by delays in equipping him for Williamsburg 'till the 1st of April, when he set out with promises to make up his lost time; that her youngest son had also been detained at home by ill health till very lately, but that he would certainly go to the academy as soon as a vacation on hand was over; that his time had not been entirely lost, as his brother was capable of instructing him whenever his health would admit." Mr. Maury's school is said to be very flourishing. Mr. Wythe and the other gentlemen of the University have examined it from time to time, and published their approbation of its management. I cannot speak with the same authority as to the Academy in Prince Edward. The information which I have received has been favorable to it. In the recommendation of these seminaries I was much governed by the probable permanency of them; nothing being more ruinous to education than the frequent interruptions and change of masters and methods incident to the private schools of this country.

Our winter has been full of vicissitudes, but, on the whole, far from being a severe one. The spring has been uncommonly cold and wet, and vegetation, of course, very backward, till within a few days, during which it has been accelerated by very uncom-

mon heat. A pocket thermometer which stands on the second floor and the N. W. side of the house was, on the 24th inst., at 4 o'clock, at  $77^{\circ}$ ; on the 25th, at 78; on the 26th, at  $81\frac{1}{2}$ ; to-day, the 27th, at 82. The weather during this period has been fair, and the wind S; the atmosphere thick N. W.; our wheat in the ground is very unpromising throughout the country. The price of that article on tide-water is about 6s. Corn sells in this part of the country at 10s. and under; below, at 15s.; and where the insect prevailed, as high as 20s. It is said to have been raised by a demand for exportation. Tobacco is selling on Rappahannock at 32s., and Richmond at 37s. 6d. It is generally expected that it will at least get up to 40s. Some of our peaches are killed, and most of our cherries; our apples are as yet safe. I cannot say how it is with the fruit in other parts of the country. The mischief to the cherries, &c., was done on the night of the 20th, when we had a severe black frost.

I cannot take my leave of you without making my acknowledgements for the very friendly invitation contained in your last. If I should ever visit Europe, I should wish to do it less stinted in time than your plan proposes. This crisis, too, would be particularly inconvenient, as it would break in upon a course of reading which, if I neglect now, I shall probably never resume. I have some reason, also, to suspect that crossing the sea would be unfriendly to a singular disease of my constitution. The other part of your invitation has the strongest bias of my mind on its side, but my situation is as yet too dependent on circumstances to permit my embracing it absolutely. It gives me great satisfaction to find that you are looking forward to the moment which is to restore you to your native country, though considerations of a public nature check my wishes that such an event may be expedited.

Present my best respects to Mr. Short and Miss Patsy, and accept of the affectionate regards of, Dear Sir, your sincere friend.

What has become of the subterraneous city discovered in Siberia?

Deaths:—Thompson Mason, Bartholomew Dandridge, Ryland Randolph, Joseph Reed of Philadel<sup>a</sup>.

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TO JAMES MONROE.

ORANGE, April 28th, 1785.

DEAR SIR,—I have written several letters within a little time past, which were sent to you partly by the post, partly by Mr. Burnley, a young gentleman of this county. In one of the letters I enclosed a cypher, which will serve all the purposes of our future correspondence. This covers a letter from Mr. Jefferson, which you will be so good as to forward by the first packet or other equally eligible conveyance. Our elections, as far as I hear, are likely to produce a great proportion of new members. In some counties they are influenced by the Bill for a general assessment. In Culpeper, Mr. Pendleton, a worthy man, and acceptable in his general character to the people, was laid aside in consequence of his vote for the Bill, in favor of an adversary to it. The delegates from Albemarle are your friend Mr. W. C. Nicholas and Mr. Fry. Mr. Carter stood a poll, but fell into the rear. The late Governor Harrison, I am told, has been baffled in his own County, meant to be a candidate for Surry, and in case of a rebuff there to throw another die for the Borough of Norfolk. I do not know how he proposes to satisfy the doctrine of residence.

I hear frequent complaints of the disorders of our coin, and the want of uniformity in the denominations of the States. Do not Congress think of a remedy for these evils? The regulation of weights and measure seem also to call for their attention. Every day will add to the difficulty of executing these works. If a mint be not established and a recoinage effected while the federal debts carry the money through the hands of Congress, I question much whether their limited powers will ever be able to render this branch of their prerogative effectual. With regard to the regulation of weights and measures, would it not be highly expedient, as well as honorable to the federal



administration, to pursue the hint which has been suggested by ingenious and philosophical men, to wit: that the standard of measure should be first fixed by the length of a pendulum vibrating seconds at the Equator or any given latitude; and that the standard of weights should be a cubical piece of gold, or other homogeneous body, of dimensions fixed by the standard of measure? Such a scheme appears to be easily reducible to practice; and as it is founded on the division of time, which is the same at all times and in all places, and proceeds on other data which are equally so, it would not only secure a perpetual uniformity throughout the United States, but might lead to universal standards in these matters among nations. Next to the inconveniency of speaking different languages, is that of using different and arbitrary weights and measures.

I am, dear sir, your affectionate friend.

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TO JAMES MONROE.

ORANGE,, May 29th, 1785.

DEAR SIR,—Your favor of May — came to hand a few days ago. It is fortunate that the variant ideas have been so easily accommodated touching the mode of surveying and selling the territorial land. It will be equally so, I think, if you can dispossess the British of the Western posts before the land office is opened. On this event and the navigation of the Mississippi will much depend the fiscal importance of the back country to the United States. The amount of the proposed requisition will, I fear, startle those to whom it will be addressed. The use of certificates as a medium for discharging the interest of the home debt is a great evil, though I suppose a necessary one. The advantage it gives to Sharpers and Collectors can scarcely be described, and what is more noxious, it provokes violations of public faith more than the weight of the Burden itself. The 1,000,000 dollars to be paid in specie, and the greatest part of it to be sent abroad, will equally try the virtue

of the States. If they do not flinch, however, they will have the satisfaction of coming out of the trial with more honor, though with less money.

I have lately heard that the Kentucky Delegates will be instructed to propose to the next session the separation of that Country from this, and its being handed over to Congress for admission into the Confederacy. If they pursue their object through this channel, they will not only accomplish it without difficulty, but set a useful example to other Western settlements which may chuse to be lopped off from other States. My information as to this matter is not authentic, but such as I am inclined to believe true. I hear, also, that a State is actually set up in the back country of North Carolina, that it is organized, named, and has deputed representatives to Congress.

It gives me much pleasure to observe by 2 printed reports sent me by Col. Grayson, that, in the latter, Congress had expunged a clause contained in the first, for setting apart a district of land in each Township for supporting the Religion of the majority of inhabitants. How a regulation so unjust in itself, so foreign to the authority of Congress, so hurtful to the sale of the public land, and smelling so strongly of an antiquated Bigotry, could have received the countenance of a Committee, is truly matter of astonishment. In one view it might have been no disadvantage to this State, in case the General Assessment should take place, as it would have given a repellent quality to the new Country in the estimation of those whom our own encroachments on Religious liberty would be calculated to banish to it. But the adversaries to the assessment begin to think the prospect here flattering to their wishes. The printed bill has excited great discussion, and is likely to prove the sense of the community to be in favor of the liberty now enjoyed. I have heard of several Counties where the late representatives have been laid aside for voting for the Bill, and not of a single one where the reverse has happened. The Presbyterian Clergy, too, who were in general friends to the scheme, are already in another tone, either compelled by the laity of that sect, or alarmed at the probability of further interferences

of the Legislature if they once begin to dictate in matters of Religion.

I am, dear sir, your's affectionately.

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TO JAMES MONROE.

ORANGE, 21 June, 1785.

DEAR SIR,—Finding from a letter of Mr. Mazzei that you have never been furnished with a copy of the Bill for establishing the Christian Religion in this State, I now inclose one, regretting that I had taken it for granted that you must have been supplied through some other channel. A very warm opposition will be made to this innovation by the people of the middle and back Counties, particularly the latter. They do not scruple to declare it an alarming usurpation on their fundamental rights, and that though the General Assembly should give it the form, they will not give it the validity of a law. If there be any limitation to the power of the Legislature, particularly if this limitation is to be sought in our Declaration of Rights or form of Government, I own the Bill appears to me to warrant this language of the people.

A gentleman of credit lately from Kentucky tells me that he fell in with two persons on the Ohio, who were going down the River in the character of Commissioners from Georgia, authorized to demand from the Spanish Governor of New Orleans the posts within the limits of that State, and a settlement of the boundary in general between it and the Spanish possessions. The Gentleman did not see their Commission, but entertains no doubt of their having one. He was informed that two others were joined in it, who had taken a different route. Should there be no mistake in this case, you will no doubt be able to get a full account of the Embassy. I would willingly suppose that no State could be guilty either of so flagrant an outrage on the federal Constitution, or of so imprudent a mode of pursuing their claims against a foreign nation.

I observe in a late Newspaper that the commercial discontents of Boston are spreading to New York and Philadelphia. Whether they will reach Virginia or not, I am unable to say. If they should, they must proceed from a different interest; from that of the planters, not that of the Merchants. The present system here is as favorable to the latter as it is ruinous to the former. Our trade was never more compleatly monopolized by Great Britain, when it was under the direction of the British Parliament, than it is at this moment. But as our Merchants are almost all connected with that Country, and that only, and as we have neither ships nor seamen of our own, nor likely to have any in the present course of things, no mercantile complaints are heard. The planters are dissatisfied, and with reason; but they enter little into the science of commerce, and rarely of themselves combine in defence of their interests. If any thing could rouse them to a proper view of their situation, one might expect it from the contrast of the market here with that of other States. Our staple has of late been as low as a guinea per hundred on Rappahannock, and not above 32 or 33 Shillings on James River. The current prices in Philadelphia during the same period have been 44 shillings of this currency for tobacco of the latter inspections, and in like proportion for that of the former.

The prices of imports of every kind in those two markets furnish a contrast equally mortifying to us. I have not had the same information from other States northward of us, but I have little doubt that it would teach us the same lesson. Our planters cannot suffer a loss of less than fifty per cent. on the staple of the country, if to the direct loss in the price of the staple be added their indirect loss in the price of what they purchase with their staple. It is difficult, notwithstanding, to make them sensible of the utility of establishing a Philadelphia or\* a Baltimore among ourselves, as one indispensable step towards relief; and the difficulty is not a little increased by the pains taken by the merchants to prevent such a reformation, and by

\* By concentrating our commerce at Alexandria and Norfolk, the object of the port Bill.

the opposition arising from local views. I have been told that Arthur Lee paved the way to his election in Prince William by promising that, among other things, he would overturn the Port bill. Mr. Jefferson writes me that the Port Bill has been published in all the Gazettes in Europe, with the highest approbation every where except in Great Britain. It would indeed be as surprising if she should be in favor of it, as it is that any among ourselves should be against it. I see no possibility of engaging other nations in a rivalry with her without some such regulation of our commerce.

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TO R. H. LEE.

ORANGE, July 7th, 1785.

DEAR SIR,—Your favour of the 30th of May came to hand yesterday only, having lain some time in Fredericksburg, and finally came to Orange, via Albemarle.

I agree perfectly with you in thinking it the interest of this country to embrace the first decent opportunity of parting with Kentucky, and to refuse with firmness to part with any more of our settlements beyond the Alleghany. It seems necessary, however, that this first instance of a voluntary dismemberment of a State should be conducted in such a manner as to form a salutary precedent. As it is an event which will indirectly affect the whole Confederacy, Congress ought clearly to be made a party to it, either immediately, or by a proviso that the partition act shall not take effect till the actual admission of the new State into the Union. No interval whatever should be suffered between the release of our hold on that Country and its taking on itself the obligations of a member of the federal body. Should it be made a separate State without this precaution, it might possibly be tempted to remain so, as well with regard to the U. S. as to Virginia, by two considerations: 1. The evasion of its share of the general debt. 2. The allurements which an exemption from taxes would prove to the citizens of States groaning under them. It is very possible that such a

policy might in the end prove a disadvantageous one, but the charms of ambition, and, at present, interest, too, often prevail against the cool remonstrances of true policy. May we not, also, with justice, require that a reasonable portion of the particular debt of Virginia should be assumed by that part of Virginia which is to set up for itself?

The arrival of Mr. Gardoqui will turn out, I hope, an auspicious step towards conciliating explanations and overtures with regard to the Mississippi. Besides the general motives for expediting an adjustment of this matter, the prodigious effect of it on the sale of the back lands makes it of peculiar importance. The same consideration presses for such arrangements with G. B. as will give us speedy possession of the Western posts. As to the commercial arrangements which we wish from her, I own my expectations are far from being sanguine. In fact, what could she get from us by concessions, which she is unwilling to make, which she does not now enjoy?

I cannot speak with certainty as to all the States, but sure I am that the trade of this was never more completely monopolized by her when it was under the direction of her own laws than it is at this moment. Our present situation, therefore, precisely verifies the doctrine held out in Deane's intercepted letters. The revolution has robbed us of our trade with the West Indies, the only one which yielded us a favorable balance, without opening any other channels to compensate for it. What makes the British monopoly the more mortifying, is the abuse which they make of it. Not only the private planters, who have resumed the practice of shipping their own Tobacco, but many of the merchants, particularly the natives of the country, who have no connections with G. B., have received acc<sup>ts</sup> of sales this season, which carry the most visible and shameful frauds in every article.

In every point of view, indeed, the trade of this country is in a deplorable condition. A comparison of current prices here with those in the Northern States, either at this time or at any time since the peace, will shew that the loss direct on our produce, and indirect on our imports, is not less than fifty per cent.

Till very lately the price of our staple has been down at 32 and 33s on James River; at 28s. on Rappahannock. During the same period, the former was selling in Philadelphia, and I suppose in other Northern ports, at 44s. of this currency, and the latter in proportion; though it cannot be denied that Tobacco in the Northern ports is intrinsically worth less than it is here, being at the same distance from its ultimate market, and burdened with the freight from this to the other States. The price of merchandize here is at least as much above as that of Tobacco is below the Northern standard.

We have had throughout the month of June, and until this time, very hot and very wet weather. The effect of it on upland corn has been favorable, but much the reverse on that of the flats. It has given full opportunity to the planters to pitch their crops of Tobacco, but though many of them have repeated this operation several times, the grasshoppers and other noxious insects have been so uncommonly troublesome that in many places the prospect is likely to be much abridged. Should this not be the case, the efforts of the country must produce the greatest crop that has been seen since the peace. Our Wheat in this part of the country is very indifferent. How it may be in others I cannot say, but believe the complaints are pretty general.

With the highest esteem and regard, Dear Sir, your obt and very humble serv.

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TO EDMUND RANDOLPH.

ORANGE, July 26th. 1785.

MY DEAR FRIEND,—Your favour of the 17th inst., inclosing a letter from Mr. Jones and a copy of the ecclesiastical Journal, came safe to hand. If I do not dislike the contents of the latter, it is because they furnish, as I conceive, fresh and forcible arguments against the General Assessment. It may be of little consequence what tribunal is to judge of clerical misdemeanors

or how firmly the incumbent may be fastened on the parish, whilst the vestry and people may hear and pay him or not, as they like. But should a legal salary be annexed to the title, this phantom of power would be substantiated into a real monster of oppression. Indeed, it appears to be so at present as far as the Glebes and donations extend. I had seen some parcels of these proceedings before I received your letter, and had remarked the sprinklings of liberality to which you allude. My conjectures, I believe, did not err as to the quarter from which they came.

The urgency of General Washington in the late negociation with Maryland makes it probable, I think, that he will feel some chagrin at the inattention to that with Pennsylvania, which has a much nearer connection with his favorite object, and was, moreover, suggested by himself. Shortly after the date of my last I dropped a few lines to Col. Mason, reminding him that some report will be expected from the Commissioners by the Assembly, as well as of the real importance of the business. I have not yet received any answer, and begin to suspect that my letter may have miscarried. Your information leads me to doubt whether he has ever been furnished with a copy of the Resolution under which he is to proceed. I will write to him again, and inclose one which Mr. Jones sent me.

I have a letter from the Marquis, but dated as far back as March. It was accompanied with a Copy of a French memorial to the Emperor, which seems to have stifled the War in its birth; and an Extract from a late work of Mr. Neckar, which has made him the idol of one party in France and the execration of the other. To avoid the trouble of transcribing, I send them as they came to me. You can peruse and return them by my brother, who is the bearer of this, or by any future opportunity. The Marquis says he is doing all he can to forward our claim to the Mississippi; that the French Ministry understand the matter and are well disposed; but that they are apprehensive "Spain knows not how to give up what she once has."

I had heard of the strictures on the incorporating Act, but without being able to pick up any of the papers in which they



are published. I have desired my brother to search them out if he can. Perhaps you can refer him to the proper press and numbers.

At the instance of Col. Nicholas, of Albemarle, I undertook the draught of the inclosed remonstrance against the General Assessment. Subscriptions to it are on foot, I believe, in sundry Counties, and will be extended to others. My choice is, that my name may not be associated with it. I am not sure that I know precisely your ideas on this subject; but were they more variant from mine than I take them to be, I should not be restrained from a confidential communication.

I keep up my attention, as far as I can command my time, to the course of reading which I have of late pursued, and shall continue to do so. I am, however, far from being determined ever to make a professional use of it. My wish is, if possible, to provide a decent and independent subsistence, without encountering the difficulties which I foresee in that line. Another of my wishes is to depend as little as possible on the labour of slaves. The difficulty of reconciling these views has brought into my thoughts several projects from which advantage seemed attainable. I have, in concert with a friend here, one at present on the anvil, which we think cannot fail to yield a decent reward for our trouble. Should we persist in it, it will cost me a ride to Philadelphia, after which it will go on without my being ostensibly concerned. I forbear to particularize till I can do it ore tenus. Should I take this ride I may *possibly* continue it into the Eastern States; Col. Monroe having given me an invitation to take a ramble of curiosity this fall, which I have half a mind to accept, and among outhier routes named this. I recollect that you talked yourself of a trip last spring as far as Lancaster. Have you laid it aside totally? Or will your domestic endearments forbid even the trip to Bath, from which I promised myself the happiness of taking you by the hand in Orange? Give my warmest respects to Mrs. Randolph, and be assured that I remain, with sincere affection, your friend.

Was the Royal assent ever given to the act of 1769, entitled "an act to amend an act entitled, an act declaring the law concerning Executions and for relief of insolvent debtors."

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*To the Honorable the General Assembly of the Commonwealth of Virginia:*

A MEMORIAL AND REMONSTRANCE.

We, the subscribers, citizens of the said Commonwealth, having taken into serious consideration a Bill printed by order of the last session of General Assembly, entitled "A Bill establishing a provision for Teachers of the Christian Religion," and conceiving that the same, if finally armed with the sanctions of a law, will be a dangerous abuse of power, are bound as faithful members of a free State to remonstrate against it, and to declare the reasons by which we are determined. We remonstrate against the said Bill—

1. Because we hold it for a fundamental and undeniable truth, "that Religion, or the duty which we owe to our Creator, and the manner of discharging it, can be directed only by reason and conviction, not by force or violence."\* The Religion, then, of every man must be left to the conviction and conscience of every man; and it is the right of every man to exercise it, as these may dictate. This right is in its nature an unalienable right. It is unalienable, because the opinions of men, depending only on the evidence contemplated by their own minds, cannot follow the dictates of other men. It is unalienable, also, because what is here a right towards men is a duty towards the Creator. It is the duty of every man to render to the Creator such homage, and such only, as he believes to be acceptable to him. This duty is precedent, both in order of time and in degree of obligation, to the claims of Civil society. Before any man can be considered as a member of Civil Society, he must be considered as a subject of the Governor of the Universe; and if a member of Civil Society who enters into any subordi-

\* Declaration Rights, Article 16.

nate Association must always do it with a reservation of his duty to the General Authority, much more must every man who becomes a member of any particular Civil Society do it with a saving of his allegiance to the Universal Sovereign. We maintain, therefore, that in matters of Religion no man's right is abridged by the institution of Civil Society, and that Religion is wholly exempt from its cognizance. True it is, that no other rule exists by which any question which may divide a Society can be ultimately determined than the will of the majority; but it is also true that the majority may trespass on the rights of the minority.

2. Because, if Religion be exempt from the authority of the Society at large, still less can it be subject to that of the Legislative Body. The latter are but the creatures and vicegerents of the former. Their jurisdiction is both derivative and limited. It is limited with regard to the co-ordinate departments; more necessarily is it limited with regard to the constituents. The preservation of a free Government requires, not merely that the metes and bounds which separate each department of power be invariably maintained, but more especially that neither of them be suffered to overleap the great Barrier which defends the rights of the people. The rulers who are guilty of such an encroachment exceed the commission from which they derive their authority, and are Tyrants. The people who submit to it are governed by laws made neither by themselves nor by an authority derived from them, and are slaves.

3. Because it is proper to take alarm at the first experiment on our liberties. We hold this prudent jealousy to be the first duty of citizens, and one of the noblest characteristics of the late Revolution. The freemen of America did not wait till usurped power had strengthened itself by exercise, and entangled the question in precedents. They saw all the consequences in the principle, and they avoided the consequences by denying the principle. We revere this lesson too much soon to forget it. Who does not see that the same authority which can establish Christianity, in exclusion of all other Religions, may establish, with the same ease, any particular sect of Christians, in

exclusion of all other sects? that the same authority which can force a citizen to contribute three pence only of his property for the support of any one establishment, may force him to conform to any other establishment in all cases whatsoever?

4. Because the Bill violates that equality which ought to be the basis of every law, and which is more indispensable in proportion as the validity or expediency of any law is more liable to be impeached. "If all men are by nature equally free and independent,"\* all men are to be considered as entering into Society on equal conditions; as relinquishing no more, and therefore retaining no less, one than another, of their natural rights. Above all, are they to be considered as retaining an "*equal* title to the free exercise of Religion according to the dictates of conscience."† Whilst we assert for ourselves a freedom to embrace, to profess, and to observe, the Religion which we believe to be of divine origin, we cannot deny an equal freedom to them whose minds have not yet yielded to the evidence which has convinced us. If this freedom be abused, it is an offence against God, not against man. To God, therefore, not to man, must an account of it be rendered. As the bill violates equality by subjecting some to peculiar burdens, so it violates the same principle by granting to others peculiar exemptions. Are the Quakers and Menonists the only Sects who think a compulsive support of their Religions unnecessary and unwarrantable? Can their piety alone be entrusted with the care of public worship? Ought their Religions to be endowed above all others with extraordinary privileges, by which proselytes may be enticed from all others? We think too favourably of the justice and good sense of these denominations to believe that they either covet pre-eminences over their fellow-citizens, or that they will be seduced by them from the common opposition to the measure.

5. Because the Bill implies, either that the civil Magistrate is a competent Judge of Religious truths, or that he may employ Religion as an engine of civil policy. The first is an arro-

\* Declaration Rights, article 1.

† Article 16.

gant pretension, falsified by the contradictory opinions of Rulers in all ages, and throughout the world; the second, an unhallowed perversion of the means of salvation.

6. Because the establishment proposed by the Bill is not requisite for the support of the Christian Religion. To say that it is, is a contradiction to the Christian Religion itself, for every page of it disavows a dependence on the powers of this world. It is a contradiction to fact, for it is known that this Religion both existed and flourished, not only without the support of human laws, but in spite of every opposition from them; and not only during the period of miraculous aid, but long after it had been left to its own evidence and the ordinary care of providence. Nay, it is a contradiction in terms; for a Religion not invented by human policy must have pre-existed and been supported before it was established by human policy. It is, moreover, to weaken in those who profess this Religion a pious confidence in its innate excellence and the patronage of its Author; and to foster in those who still reject it a suspicion that its friends are too conscious of its fallacies to trust it to its own merits.

7. Because experience witnesseth that ecclesiastical establishments, instead of maintaining the purity and efficacy of Religion, have had a contrary operation. During almost fifteen Centuries has the legal establishment of Christianity been on trial. What have been its fruits? More or less, in all places, pride and indolence in the Clergy; ignorance and servility in the laity; in both, superstition, bigotry, and persecution. Enquire of the Teachers of Christianity for the ages in which it appeared in its greatest lustre; those of every Sect point to the ages prior to its incorporation with civil policy. Propose a restoration of this primitive state, in which its Teachers depended on the voluntary rewards of their flocks; many of them predict its downfall. On which side ought their testimony to have greatest weight; when for or when against their interest?

8. Because the establishment in question is not necessary for the support of Civil Government. If it be urged as necessary for the support of Civil Government only as it is a means of

supporting Religion, and it be not necessary for the latter purpose, it cannot be necessary for the former. If Religion be not within the cognizance of Civil Government, how can its legal establishment be necessary to Civil Government? What influence, in fact, have ecclesiastical establishments had on Civil Society? In some instances they have been seen to erect a spiritual tyranny on the ruins of the civil authority; in many instances they have been seen upholding the thrones of political tyranny; in no instance have they been seen the guardians of the liberties of the people. Rulers who wished to subvert the public liberty may have found an established Clergy convenient auxiliaries. A just Government, instituted to secure and perpetuate it, needs them not. Such a Government will be best supported by protecting every citizen in the enjoyment of his Religion with the same equal hand which protects his person and his property; by neither invading the equal rights of any Sect, nor suffering any sect to invade those of another.

Because the proposed establishment is a departure from that generous policy which, offering an Asylum to the persecuted and oppressed of every Nation and Religion, promised a lustre to our country, and an accession to the number of its citizens. What a melancholy mark is the Bill of sudden degeneracy! Instead of holding forth an Asylum to the persecuted, it is itself a signal of persecution. It degrades from the equal rank of Citizens all those whose opinions in Religion do not bend to those of the Legislative authority. Distant as it may be in its present form from the Inquisition, it differs from it only in degree. The one is the first step, the other the last, in the career of intolerance. The magnanimous sufferer under this cruel scourge in foreign Regions must view the Bill as a Beacon on our Coast warning him to seek some other haven, where liberty and philanthropy, in their due extent, may offer a more certain repose from his troubles.

Because it will have a like tendency to banish our citizens. The allurements presented by other situations are every day thinning their number. To superadd a fresh motive to emigration by revoking the liberty which they now enjoy would be

the same species of folly which has dishonoured and depopulated flourishing kingdoms.

Because it will destroy that moderation and harmony which the forbearance of our laws to intermeddle with Religion has produced among its several Sects. Torrents of blood have been spilt in the old world in consequence of vain attempts of the secular arm to extinguish Religious discord by proscribing all differences in Religious opinion. Time has at length revealed the true remedy. Every relaxation of narrow and rigorous policy, wherever it has been tried, has been found to assuage the disease. The American theatre has exhibited proofs that equal and complete liberty, if it does not wholly eradicate it, sufficiently destroys its malignant influence on the health and prosperity of the State. If, with the salutary effects of this system under our own eyes, we begin to contract the bounds of Religious freedom, we know no name which will too severely reproach our folly. At least, let warning be taken at the first fruits of the threatened innovation. The very appearance of the Bill has transformed "that christian forbearance, love, and charity,"\* which of late mutually prevailed, into animosities and jealousies, which may not soon be appeased. What mischiefs may not be dreaded, should this enemy to the public quiet be armed with the force of a law?

Because the policy of the Bill is adverse to the diffusion of the light of Christianity. The first wish of those who enjoy this precious gift ought to be, that it may be imparted to the whole race of mankind. Compare the number of those who have as yet received it with the number still remaining under the dominion of false Religions, and how small is the former! Does the policy of the Bill tend to lessen the disproportion? No; it at once discourages those who are strangers to the light of revelation from coming into the Region of it, and countenances by example the nations who continue in darkness in shutting out those who might convey it to them. Instead of levelling, as far as possible, every obstacle to the victorious

\* Declaration Rights, Article 16.

progress of truth, the Bill, with an ignoble and unchristian timidity, would circumscribe it with a wall of defence against the encroachments of error.

Because attempts to enforce, by legal sanctions, acts obnoxious to so great a proportion of citizens, tend to enervate the laws in general, and to slacken the bands of Society. If it be difficult to execute any law which is not generally deemed necessary or salutary, what must be the case where it is deemed invalid and dangerous? And what may be the effect of so striking an example of impotency in the Government on its general authority?

Because a measure of such singular magnitude and delicacy ought not to be imposed without the clearest evidence that it is called for by a majority of citizens; and no satisfactory method is yet proposed by which the voice of the majority in this case may be determined, or its influence secured. "The people of the respective Counties are, indeed, requested to signify their opinion respecting the adoption of the Bill to the next Session of the Assembly." But the representation must be made equal before the voice either of the Representatives or of the Counties will be that of the people. Our hope is, that neither of the former will, after due consideration, espouse the dangerous principle of the Bill. Should the event disappoint us, it will still leave us in full confidence that a fair appeal to the latter will reverse the sentence against our liberties.

Because, finally, "the equal right of every Citizen to the free exercise of his Religion, according to the dictates of conscience," is held by the same tenure with all our other rights. If we recur to its origin, it is equally the gift of nature; if we weigh its importance, it cannot be less dear to us; if we consult the Declaration of those rights "which pertain to the good people of Virginia as the basis and foundation of Government,"\* it is enumerated with equal solemnity, or rather with studied emphasis. Either, then, we must say, that the will of the Legislature is the only measure of their authority, and that in the plenitude

\* Declaration Rights, title.



of that authority they may sweep away all our fundamental rights, or that they are bound to leave this particular right untouched and sacred. Either we must say, that they may controul the freedom of the press, may abolish the trial by jury, may swallow up the Executive and Judiciary powers of the State; nay, that they may despoil us of our very right of suffrage, and erect themselves into an independent and hereditary Assembly; or we must say, that they have no authority to enact into a law the Bill under consideration.

We, the subscribers, say that the General Assembly of this Commonwealth have no such authority. And in order that no effort may be omitted on our part against so dangerous an usurpation, we oppose to it this remonstrance; earnestly praying, as we are in duty bound, that the Supreme Lawgiver of the Universe, by illuminating those to whom it is addressed, may, on the one hand, turn their councils from every act which would affront his holy prerogative, or violate the trust committed to them; and on the other, guide them into every measure which may be worthy of his blessing, redound to their own praise, and establish more firmly the liberties, the prosperity, and the happiness of the Commonwealth.

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TO JAMES MONROE.

ORANGE, August 7th, 1785.

DEAR SIR,—I received the day before yesterday your favour of the 26th July. I had previously received the Report on the proposed change of the 9th article of the Confederation, transmitted by Col. Grayson; and in my answer to him offered such ideas on the subject as then occurred.

I still think the probability of success or failure ought to weigh much with Congress in every recommendation to the States; of which probability Congress, in whom information from every State centers, can alone properly judge. Viewing in the abstract the question whether the power of regulating trade, to a certain degree at least, ought to be vested in Con-

gress, it appears to me not to admit of a doubt but that it should be decided in the affirmative. If it be necessary to regulate trade at all, it surely is necessary to lodge the power where trade can be regulated with effect; and experience has confirmed what reason foresaw, that it can never be so regulated by the States acting in their separate capacities. They can no more exercise this power separately than they could separately carry on war, or separately form treaties of alliance or commerce. The nature of the thing, therefore, proves the former power, no less than the latter, to be within the reason of the federal Constitution.

Much, indeed, is it to be wished, as I conceive, that no regulations of trade, that is to say, no restrictions on imposts whatever, were necessary. A perfect freedom is the system which would be my choice. But before such a system will be eligible, perhaps, for the United States, they must be out of debt; before it will be attainable, all other nations must concur in it. Whilst any one of these imposes on our vessels, seamen, &c., in their ports, clogs from which they exempt their own, we must either retort the distinction, or renounce, not merely a just profit, but our only defence against the danger which may most easily beset us. Are we not at this moment under this very alternative? The policy of Great Britain (to say nothing of other nations) has shut against us the channels without which our trade with her must be a losing one; and she has consequently the triumph, as we have the chagrin, of seeing accomplished her prophetic threats, that our independence should forfeit commercial advantages for which it would not recompence us with any new channels of trade.

What is to be done? Must we remain passive victims to foreign politics, or shall we exert the lawful means which our independence has put into our hands of extorting redress? The very question would be an affront to every citizen who loves his country. What, then, are these means? Retaliating regulations of trade only. How are these to be effectuated? Only by harmony in the measures of the States. How is this harmony to be obtained? Only by an acquiescence of all the States in

the opinion of a reasonable majority. If Congress, as they are now constituted, cannot be trusted with the power of digesting and enforcing this opinion, let them be otherwise constituted; let their numbers be increased, let them be chosen oftener, and let their period of service be shortened; or if any better medium than Congress can be proposed by which the wills of the States may be concentered, let it be substituted; or lastly, let no regulation of trade adopted by Congress be in force until it shall have been ratified by a certain proportion of the States. But let us not sacrifice the end to the means; let us not rush on certain ruin in order to avoid a possible danger.

I conceive it to be of great importance that the defects of the federal system should be amended, not only because such amendments will make it better answer the purpose for which it was instituted, but because I apprehend danger to its very existence from a continuance of defects which expose a part, if not the whole, of the empire to severe distress. The suffering part, even when the minor part, cannot long respect a Government which is too feeble to protect their interests: but when the suffering part comes to be the major part, and they despair of seeing a protecting energy given to the General Government, from what motives is their allegiance to be any longer expected? Should Great Britain persist in the machinations which distress us, and seven or eight of the States be hindered by the others from obtaining relief by federal means, I own I tremble at the anti-federal expedients into which the former may be tempted.

As to the objection against entrusting Congress with a power over trade, drawn from the diversity of interests in the States, it may be answered: 1. That if this objection had been listened to, no confederation could have ever taken place among the States. 2. That if it ought now to be listened to, the power held by Congress of forming commercial treaties, by which 9 States may indirectly dispose of the Commerce of the residue, ought to be immediately revoked. 3. That the fact is, that a case can scarcely be imagined in which it would be the interest of any two-thirds of the States to oppress the remaining one-third. 4. That the true question is, whether the commercial

interests of the States do not meet in more points than they differ. To me it is clear that they do; and if they do, there are so many more reasons for than against submitting the commercial interest of each State to the direction and care of the majority.

Put the West India trade alone, in which the interest of every State is involved, into the scale against all the inequalities which may result from any probable regulation by nine States, and who will say that the latter ought to preponderate? I have heard the different interest which the Eastern States have as carriers pointed out as a ground of caution to the Southern States, who have no bottoms of their own, against their concurring hastily in retaliations on Great Britain. But will the present system of Great Britain ever give the Southern States bottoms? and if they are not their own carriers, I should suppose it no mark either of folly or incivility to give our custom to our brethren, rather than to those who have not yet entitled themselves to the name of friends.

In detailing these sentiments, I have nothing more in view than to prove the readiness with which I obey your request. As far as they are just, they must have been often suggested in the discussions of Congress on the subject. I cannot even give them weight by saying that I have reason to believe they would be relished in the public Councils of this State. From the trials of which I have been a witness, I augur that great difficulties will be encountered in every attempt to prevail on the Legislature to part with power. The thing itself is not only unpalatable, but the arguments which plead for it have not their full force on minds unaccustomed to consider the interests of the State as they are interwoven with those of the Confederacy, much less as they may be affected by foreign politics; whilst those which plead against it are not only specious, but in their nature popular, and for that reason sure of finding patrons.

Add to all this, that the Mercantile interest, which has taken the lead in rousing the public attention of other States, is in this so exclusively occupied in British Commerce, that what little weight they have will be most likely to fall into the oppo-

site scale. The only circumstance which promises a favorable hearing to the meditated proposition of Congress is, that the power which it asks is to be exerted against Great Britain, and the proposition will consequently be seconded by the animosities which still prevail in a strong degree against her.

I am, my dear sir, very sincerely, your friend and serv.

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TO THOMAS JEFFERSON.

ORANGE, August 20th, 1785.

DEAR SIR,—Yours of the 18th of March never reached me till the 4th instant. It came by post from New York, which it did not leave till the 21 of July. My last was dated in April, and went by Mr. Mazzei, who picked it up at New York and promised to deliver it with his own hand.

The machinations of Great Britain, with regard to commerce, have produced much distress and noise in the Northern States, particularly in Boston, from whence the alarm has spread to New York and Philadelphia. Your correspondence with Congress will no doubt have furnished you with full information on this head. I only know the general fact, and that the sufferers are everywhere calling for such augmentation of the power of Congress as may effect relief. How far the Southern States, and Virginia in particular, will join in this proposition, cannot be foreseen. It is easy to foresee that the circumstances which, in a confined view, distinguish our situation from that of our brethren, will be laid hold of by the partizans of Great Britain, by those who are or affect to be jealous of Congress, and those who are interested in the present course of business, to give a wrong bias to our councils. If anything should reconcile Virginia to the idea of giving Congress a power over her trade, it will be that this power is likely to annoy Great Britain, against whom the animosities of our citizens are still strong. They seem to have less sensibility to their commercial interests, which

they very little understand, and which the mercantile class here have not the same motives, if they had the same capacity, to lay open to the public, as that class have in the States North of us.

The price of our Staple since the peace is another cause of inattention in the planters to the dark side of our commercial affairs. Should these or any other causes prevail in frustrating the scheme of the Eastern and Middle States of a general retaliation on Great Britain, I tremble for the event. A majority of the States, deprived of a regular remedy for their distresses by the want of a federal spirit in the minority, must feel the strongest motives to some irregular experiments. The danger of such a crisis makes me surmise that the policy of Great Britain results as much from the hope of effecting a breach in our Confederacy as of monopolizing our trade.

Our internal trade is taking an arrangement from which I hope good consequences. Retail Stores are spreading all over the Country; many of them carried on by native adventurers, some of them branched out from the principal Stores at the heads of navigation. The distribution of the business, however, into the importing and the retail departments, has not yet taken place. Should the port bill be established, it will, I think, quickly add this amendment, which indeed must in a little time follow of itself. It is the more to be wished for, as it is the only radical cure for credit to the consumer, which continues to be given to a degree which, if not checked, will turn the diffusive retail of Merchandize into a nuisance. When the Shop-keeper buys his goods of the wholesale Merchant, he must buy at so short a credit that he can venture to give none at all.

You ask me to unriddle the dissolution of the Committee of the States at Annapolis. I am not sure that I am myself possessed fully of the causes, different members of Congress having differed in their accounts of the matter. My conception of it is, that the abrupt departure of some of the Eastern delegates, which destroyed the quorum, and which Dana is said to have been at the bottom of, proceeded partly from irritations among the committee, partly from dislike to the place of their session,

and partly from an impatience to get home, which prevailed over their regard for their private characters, as well as for their public duty.

Subsequent to the date of mine in which I gave my idea of Fayette, I had further opportunities of penetrating his character. Though his foibles did not disappear, all the favorable traits presented themselves in a stronger light on closer inspection. He certainly possesses talents which might figure in any line. If he is ambitious, it is rather of the praise which virtue dedicates to merit, than of the homage which fear renders to power; his disposition is naturally warm and affectionate, and his attachment to the United States unquestionable. Unless I am grossly deceived, you will find his zeal sincere and useful, whenever it can be employed in behalf of the United States without opposition to the essential interests of France.

The opposition to the General Assessment gains ground. At the instance of some of its adversaries, I drew up the remonstrance herewith inclosed. It has been sent through the medium of confidential persons in a number of the upper Counties, and I am told will be pretty extensively signed. The Presbyterian clergy have at length espoused the side of the opposition, being moved either by a fear of their laity or a jealousy of the Episcopalians. The mutual hatred of these sects has been much inflamed by the late act incorporating the latter. I am far from being sorry for it, as a coalition between them could alone endanger our religious rights, and a tendency to such an event had been suspected. The fate of the Circuit Courts is uncertain. They are threatened with no small danger from the diversity of opinions entertained among the friends of some reform in that department. But the greatest danger is to be feared from those who mask a secret aversion to any reform under a zeal for such a one as they know will be rejected. The Potowmac Company are going on with very flattering prospects. Their subscriptions some time ago amounted to upward of four-fifths of the whole sum. I have the pleasure, also, to find, by an advertisement from the managers for James River, that more than half the sum is subscribed for that undertaking, and that the

subscribers are to meet shortly for the purpose of organizing themselves and going to work. I despair of seeing the Revisal taken up at the ensuing session. The number of copies struck are so deficient, (there being not above three for each County,) and there has been such delay in distributing them, (none of the Counties having received them till very lately, and some probably not yet, though they were ready long ago,) that the principal end of their being printed has been frustrated.

Our fields promise very short crops both of corn and Tobacco. The latter was much injured by the grasshopper and other insects; the former, somewhat by the bug in the southern parts of the State; but both have suffered most from dry weather, which prevails at present in this part of the country, and has generally prevailed, I understand, in most other parts. It seems certain that no future weather can make a great crop of either, particularly of Tobacco, so great a proportion of the hills being without plants in them, and so many more with plants in them which must come to nothing. Notwithstanding this prospect, its price has fallen from 36s. to 30s. on James River, and 28s. on Rappahannock. The scarcity of cash is one cause.

Harrison, late Governor, was elected in Surrey, whither he previously removed with his family. A contest for the chair will no doubt ensue; should he fail, he will be for Congress.

I have not yet received any of the books which you have been so kind as to pick up for me, but expect their arrival daily, as you were probably soon after the date of your last apprised that I was withdrawn from the nomination, which led you to suspend the forwarding them. I am invited by Col. Monroe to an option of rambles this fall, one of which is into the Eastern States. I wish much to accept so favorable an opportunity of executing the plan from which I was diverted last fall, but cannot decide with certainty whether it will be practicable or not. I have, in conjunction with a friend here, a project of interest on the anvil, which will carry me at least as far as Phil<sup>a</sup> or New York, where I shall be able to take my final resolution.

Adieu. Yrs sincerely.



## TO JOHN BROWN, (KENTUCKY.)

ORANGE, August 23, 1785.

DEAR SIR,—Your favour of the 12th of July was safely delivered to me by Mr. Craig. I accept with pleasure your proposed exchange of Western for Eastern intelligence, and though I am a stranger to parental ties, can sufficiently conceive the happiness of which they are a source to congratulate you on your possession of two fine sons and a daughter. I do not smile at the idea of transplanting myself into your wilderness. Such a change of my abode is not, indeed, probable, yet I have no local partialities which can keep me from any place which promises the greatest real advantages. But if such a removal was not even possible, I should nevertheless be ready to communicate, as you desire, my Ideas towards a constitution of Government for the State in embryo.

I pass over the general policy of the measure which calls for such a provision. It has been unanimously embraced by those who, being most interested in it, must have best considered it, and will, I dare say, be with equal unanimity acceded to by the other party, [Congress,] which is to be consulted. I will first offer some general remarks on the subject, and then answer your several queries.

1. *The Legislative Department* ought by all means, as I think, to include a Senate, constituted on such principles as will give *wisdom* and *steadiness* to legislation. The want of these qualities is the grievance complained of in all our republics. The want of *fidelity* in the administration of power having been the grievance felt under most governments, and by the American States themselves under the British government, it was natural for them to give too exclusive an attention to this primary attribute. The Senate of Maryland, with a few amendments, is a good model. Trial has, I am told, verified the expectations from it. A similar one made a part of our Constitution as it was originally proposed, but the inexperience and jealousy of our then Councils rejected it in favor of our present Senate; a worse could hardly have been substituted; and yet,

bad as it is, it is often a useful bit in the mouth of the House of Delegates. Not a single Session passes without instances of sudden resolutions by the latter, of which they repent in time to intercede privately with the Senate for their negative. For the other branch, models enough may be found; care ought, however, to be taken against its becoming too numerous, by fixing the number which it is never to exceed. The quorum, wages, and privileges, of both branches, ought also to be fixed. A majority seems to be the natural quorum. The wages of the members may be made payable for     years to come, in the medium value of wheat for     years preceding, as the same shall from period to period be rated by a respectable jury appointed for that purpose by the Supreme Court. The privileges of the members ought not, in my opinion, to extend beyond an exemption of their persons and equipage from arrests during the time of their actual service. If it were possible, it would be well to define the extent of the Legislative power; but the nature of it seems in many respects to be indefinite. It is very practicable, however, to enumerate the essential exceptions. The Constitution may expressly restrain them from meddling with religion; from abolishing Juries; from taking away the Habeas Corpus; from forcing a citizen to give evidence against himself; from controuling the press; from enacting retrospective laws, at least in criminal cases; from abridging the right of suffrage; from taking private property for public use without paying its full value; from licensing the importation of slaves; from infringing the confederation, &c., &c.

As a further security against fluctuating and indigested laws, the Constitution of New York has provided a Council of Revision. I approve much of such an institution, and believe it is considered by the most intelligent citizens of that State as a valuable safeguard both to public interests and to private rights. Another provision has been suggested for preserving system in Legislative proceedings, which to some may appear still better. It is that a standing committee, composed of a few select and skilful individuals, should be appointed to prepare bills on all subjects which they may judge proper to be submitted to the

Legislature at their meetings, and to draw bills for them during their Sessions. As an antidote both to the jealousy and danger of their acquiring an improper influence, they might be made incapable of holding any other office, Legislative, Executive, or Judiciary. I like this suggestion so much that I have had thoughts of proposing it to our Assembly, who give almost as many proofs as they pass laws of their need of some such assistance.

2. The *Executive Department*. Though it claims the second place, it is not in my estimation entitled to it by its importance, all the great powers which are properly executive being transferred to the Federal Government. I have made up no final opinion whether the first Magistrate should be chosen by the Legislature or the people at large, or whether the power should be vested in one man, assisted by a Council, or in a Council, of which the President shall be only *primus inter pares*. There are examples of each in the United States; and probably advantages and disadvantages attending each. It is material, I think, that the number of members should be small, and that their Salaries should be either unalterable by the Legislature, or alterable only in such manner as will not affect any individual in place. Our Executive is the worst part of a bad Constitution. The members of it are dependent on the Legislature not only for their wages, but for their reputation, and therefore are not likely to withstand usurpations of that branch; they are, besides, too numerous and expensive; their organization vague and perplexed; and to crown the absurdity, some of the members may, without any new appointment, continue in Office for life, contrary to one of the Articles of the Declaration of Rights.

3. The *Judiciary Department* merits every care. Its efficacy is demonstrated in Great Britain, where it maintains private right against all the corruptions of the two other Departments, and gives a reputation to the whole government which it is not in itself entitled to. The main points to be attended to are: 1. That the Judges should hold their places during good behaviour. 2. That their Salaries should be either fixed like the

wages of the Representatives, or not be alterable so as to affect the Individuals in Office. 3. That their Salaries be liberal. The first point is obvious; without the second, the independence aimed at by the first will be ideal only; without the third, the bar will be superior to the bench, which destroys all security for a systematic administration of justice. After securing these essential points, I should think it unadvisable to descend so far into detail as to bar any future modification of this department which experience may recommend. An enumeration of the principal Courts, with power to the Legislature to institute inferior Courts, may suffice. The Admiralty business can never be extensive in your situation, and may be referred to one of the other Courts. With regard to a Court of Chancery, as distinct from a Court of Law, the reasons of Lord Bacon on the affirmative side outweigh, in my judgment, those of Lord Kaimes on the other side; yet I should think it best to leave this important question to be decided by future lights, without tying the hands of the Legislature one way or the other. I consider our County Courts as on a bad footing, and would never, myself, consent to copy them into another Constitution.

All the States seem to have seen the necessity of providing for Impeachments, but none of them to have hit on an unexceptionable tribunal. In some the trial is referred to the Senate, in others to the Executive, in others to the Judiciary department. It has been suggested that a tribunal composed of members from each department would be better than either, and I entirely concur in that opinion. I proceed next to your queries.

1. "Whether is a representation according to numbers, or "property, or in a joint proportion to both, the most safe? Or "is a representation by Counties preferable to a more equitable "mode that will be difficult to adjust?" Under this question may be considered: 1. The right of suffrage. 2. The mode of suffrage. 3. The plan of representation. As to the first, I think the extent which ought to be given to this right a matter of great delicacy and of critical importance. To restrain it to the land holders will in time exclude too great a proportion of

citizens; to extend it to all citizens without regard to property, or even to all who possess a pittance, may throw too much power into hands which will either abuse it themselves or sell it to the rich who will abuse it. I have thought it might be a good middle course to narrow this right in the choice of the least popular, and to enlarge it in that of the more popular branch of the Legislature. There is an example of this distinction in North Carolina, if in none of the other States. How it operates or is relished by the people I cannot say. It would not be surprising if in the outset, at least, it should offend the sense of equality which reigns in a free country. In a general view, I see no reason why the rights of property, which chiefly bears the burden of Government, and is so much an object of Legislation, should not be respected as well as personal rights in the choice of Rulers. It must be owned, indeed, that property will give influence to the holder, though it should give him no legal privileges, and will in general be safe on that as well as on other accounts, especially if the business of legislation be guarded with the provisions hinted at. 2. As to the mode of suffrage, I lean strongly to that of the ballot, notwithstanding the objections which lie against it. It appears to me to be the only radical cure for those arts of electioneering which poison the very fountain of Liberty. The States in which the ballot has been the standing mode are the only instances in which elections are tolerably chaste and those arts in disgrace. If it should be thought improper to fix this mode by the Constitution, I should think it at least necessary to avoid any constitutional bar to a future adoption of it.\* 3. By the plan of representation I mean: 1. The classing of the electors. 2. The proportioning of the representatives to each class. The first cannot be otherwise done than by geographical description, as by Counties. The second may easily be done, in the first instance, either by comprising within each County an equal number of Electors, or by proportioning the number of representatives of each County to its number of Electors. The difficulty

\* The Constitution of New York directs an experiment on this subject.

arises from the disproportionate increase of electors in different Counties. There seem to be two methods only by which the representation can be equalized from time to time. The first is to change the bounds of the Counties; the second, to change the number of representatives allotted to them, respectively. As the former would not only be most troublesome and expensive, but would involve a variety of other adjustments, the latter method is evidently the best. Examples of a Constitutional provision for it exists in several of the States. In some it is to be executed periodically; in others, *pro re nata*. The latter seems most accurate and very practicable. I have already intimated the propriety of fixing the number of representatives, which ought never to be exceeded; I should suppose one hundred and fifty, or even one hundred, might safely be made the *ne plus ultra* for Kentucky.

2. "Which is to be preferred; an annual, triennial, or septennial succession to offices, or frequent elections without limitations in choice, or that officers when chosen should continue *quamdiu se bene gesserint*?" The rule ought no doubt to be different in the different departments of power. For one part of the Legislature annual elections will, I suppose, be held indispensable; though some of the ablest Statesmen and soundest Republicans in the United States are in favor of triennial. The great danger in departing from annual elections in this case lies in the want of some other natural term to limit the departure. For the other branch, four or five years may be the period. For neither branch does it seem necessary or proper to prohibit an indefinite re-eligibility. With regard to the Executive, if the elections be frequent, and particularly if made as to any member of it by the people at large, a re-eligibility cannot, I think, be objected to. If they be unfrequent, a temporary or perpetual incapacity, according to the degree of unfrequency, at least in the case of the first Magistrate, may not be amiss. As to the Judiciary department, enough has been said; and as to the subordinate officers, civil and military, nothing need be said more than that a regulation of their appointments may, under a few restrictions, be safely trusted to the Legislature.

3. "How far may the same person with propriety be employed in the different departments of Government in an infant country, where the counsel of every individual may be "needed?" Temporary deviations from fundamental principles are always more or less dangerous. When the first pretext fails, those who become interested in prolonging the evil will rarely be at a loss for other pretexts. The first precedent, too, familiarises the people to the irregularity, lessens their veneration for those fundamental principles, and makes them a more easy prey to ambition and self interest. Hence it is that abuses of every kind, when once established, have been so often found to perpetuate themselves. In this caution, I refer chiefly to an improper mixture of the three great Departments within the State. A delegation to Congress is, I conceive, compatible with either.

4. "Should there be a periodical review of the Constitution?" Nothing appears more eligible in theory, nor has sufficient trial, perhaps, been yet made to condemn it in practice. Pennsylvania has alone adopted the expedient. Her citizens are much divided on the subject of their Constitution in general, and probably on this part of it in particular. I am inclined to think, though am far from being certain, that it is not a favorite part even with those who are fondest of their Constitution. Another plan has been thought of, which might, perhaps, succeed better, and would at the same time be a safeguard to the equilibrium of the constituent departments of Government. This is, that a majority of any two of the three departments should have authority to call a plenipotentiary convention whenever they may think their constitutional powers have been violated by the other department, or that any material part of the Constitution needs amendment. In your situation, I should think it both imprudent and indecent not to leave a door open for at least one revision of your first establishment—imprudent, because you have neither the same resources for supporting nor the same lights for framing a good establishment now as you will have fifteen or twenty years hence—indecent, because an handful of early settlers ought not to preclude a populous country

from a choice of the Government under which they and their posterity are to live. Should your first Constitution be made thus temporary, the objections against an intermediate union of offices will be proportionably lessened. Should a revision of it not be made thus necessary and certain, there will be little probability of its being ever revised. Faulty as our Constitution is, as well with regard to the authority which formed it as to the manner in which it is formed, the issue of an experiment has taught us the difficulty of amending it. And although the issue might have proceeded from the unseasonableness of the time, yet it may be questioned whether, at any future time, the greater depth to which it will have stricken its roots will not counterbalance any more auspicious circumstances for overturning it.

5 & 6. "Or will it be better unalterably to fix some leading principles in government, and make it consistent for the Legislature to introduce such changes in lesser matters as may become expedient? Can Censors be provided that will im- partially point out deficiencies in the Constitution and the violations that may happen?"

Answers on these points may be gathered from what has been already said.

I have been led to offer my sentiments in this loose form rather than to attempt a delineation of such a plan of government as would please myself, not only by my ignorance of many local circumstances and opinions which must be consulted in such a work, but also by the want of sufficient time for it. At the receipt of your letter I had other employment, and what I now write is in the midst of preparations for a journey of business, which will carry me as far as Philadelphia at least, and on which I shall set out in a day or two.

I am sorry that it is not in my power to give you some satisfactory information concerning the Mississippi. A Minister from Spain has been with Congress for some time, and is authorised, as I understand, to treat on whatever subjects may concern the two nations. If any explanations or propositions have passed between him and the Minister of Congress, they



are as yet in the list of Cabinet secrets. As soon as any such shall be made public and come to my knowledge, I shall take the first opportunity of transmitting them. Wishing you and your family all happiness,

I am, D<sup>r</sup> Sir, your friend and servant.

The Constitutions of the several States were printed in a small volume a year or two ago, by order of Congress. A perusal of them need not be recommended to you. Having but a single copy, I cannot supply you. It is not improbable that you may be already possessed of one. The revisal of our laws by Jefferson, Wythe, and Pendleton, beside their value in improving the legal code, may suggest something worthy of being attended to in framing a Constitution.

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[Remarks on Mr. Jefferson's "Draught of a Constitution for Virginia,"\* sent from New York to Mr. John Brown, Kentucky, October 1788:]

Senate.

The term of two years is too short. Six years are not more than sufficient. A Senate is to withstand the occasional impetuosities of the more numerous branch. The members ought, therefore, to derive a firmness from the tenure of their places. It ought to supply the defect of knowledge and experience incident to the other branch; there ought to be time given, therefore, for attaining the qualifications necessary for that purpose. It ought, finally, to maintain that system and steadiness in public affairs without which no government can prosper or be respectable. This cannot be done by a body undergoing a frequent change of its members. A Senate for six years will not be dangerous to liberty; on the contrary, it will be one of its best guardians. By correcting the infirmities of popular government, it will prevent that disgust against that form which may otherwise produce a

\* Contained in appendix to "Notes on Virginia."

sudden transition to some very different one. It is no secret to any attentive and dispassionate observer of the political situation of the United States, that the real danger to republican liberty has lurked in that cause.

The appointment of Senators by districts seems to be objectionable. A spirit of *locality* is inseparable from that mode. The evil is fully displayed in the County representations, the members of which are everywhere observed to lose sight of the aggregate interests of the community, and even to sacrifice them to the interests or prejudices of their respective constituents. In general, these local interests are miscalculated. But it is not impossible for a measure to be accommodated to the particular interests of every County or district, when considered by itself, and not so, when considered in relation to each other and to the whole State; in the same manner as the interests of individuals may be very different in a state of nature and in a political union. The most effectual remedy for the local bias is to impress on the minds of the Senators an attention to the interest of the whole society, by making them the choice of the whole Society, each citizen voting for every Senator. The objection here is, that the fittest characters would not be sufficiently known to the people at large. But, in free governments, merit and notoriety of character are rarely separated; and such a regulation would connect them more and more together. Should this mode of election be on the whole not approved, that established in Maryland presents a valuable alternative. The latter affords, perhaps, a greater security for the selection of merit. The inconveniences chargeable on it are two: first, that the Council of electors favors cabal. Against this, the shortness of its existence is a good antidote. Secondly, that in a large State the meeting of the electors must be expensive if they be paid, or badly attended if the service is onerous. To this it may be answered that, in a case of such vast importance, the expense, which could not be great, ought to be disregarded. Whichever of these modes may be preferred, it cannot be amiss so far to admit the plan of districts as to restrain the choice to persons residing in different parts of the State. Such a regula-

tion will produce a diffusive confidence in the body, which is not less necessary than the other means of rendering it useful. In a State having large towns which can easily unite their votes, the precaution would be essential to an immediate choice by the people at large. In Maryland no regard is paid to residence, and, what is remarkable, vacancies are filled by the Senate itself. This last is an obnoxious expedient, and cannot in any point of view have much effect. It was probably meant to obviate the trouble of occasional meetings of the electors. But the purpose might have been otherwise answered by allowing the unsuccessful candidates to supply vacancies according to the order of their standing on the list of votes, or by requiring provisional appointments to be made along with the positive ones. If an election by districts be unavoidable, and the ideas here suggested be sound, the evil will be diminished in proportion to the extent given to the districts, taking two or more Senators from each district.

Electors.

The first question arising here is how far property ought to be made a qualification. There is a middle way to be taken, which corresponds at once with the theory of free government and the lessons of experience. A freehold or equivalent of a certain value may be annexed to the right of voting for Senators, and the right left more at large in the election of the other House. Examples of this distinction may be found in the Constitutions of several States, particularly, if I mistake not, of North Carolina and New York. This middle mode reconciles and secures the two cardinal objects of government, the rights of persons and the rights of property. The former will be sufficiently guarded by one branch, the latter more particularly by the other. Give all power to property, and the indigent will be oppressed. Give it to the latter, and the effect may be transposed. Give a defensive share to each, and each will be secure. The necessity of thus guarding the rights of property was, for obvious reasons, unattended to in the commencement of the Revolution. In all the governments which were considered as beacons to republi-

can patriots and lawgivers, the rights of persons were subjected to those of property. The poor were sacrificed to the rich. In the existing state of American population and of American property, the two classes of rights were so little discriminated, that a provision for the rights of persons was supposed to include of itself those of property; and it was natural to infer, from the tendency of republican laws, that these different interests would be more and more identified. Experience and investigation have, however, produced more correct ideas on this subject. It is now observed that in all populous countries the smaller part only can be interested in preserving the rights of property. It must be foreseen that America, and Kentucky itself, will by degrees arrive at this state of society; that in some parts of the Union a very great advance is already made towards it. It is well understood that interest leads to injustice, as well where the opportunity is presented to bodies of men as to individuals; to an interested majority in a Republic, as to the interested minority in any other form of government. The time to guard against this danger is at the first forming of the Constitution, and in the present state of population, when the bulk of the people have a sufficient interest in possession or in prospect to be attached to the rights of property, without being insufficiently attached to the rights of persons. Liberty, not less than justice, pleads for the policy here recommended. If all power be suffered to slide into hands not interested in the rights of property, which must be the case whenever a majority fall under that description, one of two things cannot fail to happen; either they will unite against the other description and become the dupes and instruments of ambition, or their poverty and dependence will render them the mercenary instruments of wealth. In either case liberty will be subverted: in the first, by a despotism growing out of anarchy; in the second, by an oligarchy founded on corruption.

The second question under this head is, whether the ballot be not a better mode than that of voting *viva voce*. The comparative experience of the States pursuing the different modes

is in favor of the first. It is found less difficult to guard against fraud in that than against bribery in the other.

*Exclusions.*

Does not the exclusion of Ministers of the Gospel, as such, violate a fundamental principle of liberty, by punishing a religious profession with the privation of a civil right? Does it not violate another article of the plan itself, which exempts religion from the cognizance of Civil power? Does it not violate justice, by at once taking away a right and prohibiting a compensation for it? Does it not, in fine, violate impartiality, by shutting the door against the Ministers of one religion and leaving it open for those of every other?

The re-eligibility of members after accepting offices of profit is so much opposed to the present way of thinking in America, that any discussion of the subject would probably be a waste of time.

*Limits of power.*

It is at least questionable whether death ought to be confined to "treason and murder." It would not, therefore, be prudent to tie the hands of government in the manner here proposed. The prohibition of pardon, however specious in theory, would have practical consequences which render it inadmissible. A single instance is a sufficient proof. The crime of treason is generally shared by a number, and often a very great number. It would be politically if not morally wrong to take away the lives of all, even if every individual were equally guilty. What name would be given to a severity which made no distinction between the legal and the moral offence; between the deluded multitude and their wicked leaders? A second trial would not avoid the difficulty; because the oaths of the jury would not permit them to hearken to any voice but the inexorable voice of the law.

The power of the Legislature to appoint any other than their own officers departs too far from the theory which requires a separation of the great departments of government. One of the best securities against the creation of unnecessary offices or tyrannical powers is an exclusion of the authors from all share in filling the one, or influence in the execution of the other.

The proper mode of appointing to offices will fall under another head.

Executive Governor.

An election by the Legislature is liable to insuperable objections. It not only tends to faction, intrigue, and corruption, but leaves the Executive under the influence of an improper obligation to that Department. An election by the people at large, as in this\* and several other States, or by electors, as in the appointment of the Senate in Maryland, or, indeed, by the people, thro' any other channel than their legislative representatives, seems to be far preferable. The ineligibility a second time, tho' not perhaps without advantages, is also liable to a variety of strong objections. It takes away one powerful motive to a faithful and useful administration, the desire of acquiring that title to a re-appointment. By rendering a periodical change of men necessary, it discourages beneficial undertakings, which require perseverance and system, or, as frequently happened in the Roman Consulate, either precipitates or prevents the execution of them. It may inspire desperate enterprises for the attainment of what is not attainable by legitimate means. It fetters the judgment and inclination of the community; and in critical moments would either produce a violation of the Constitution or exclude a choice which might be essential to the public safety. Add to the whole, that by putting the Executive Magistrate in the situation of the tenant of an unrenovable lease, it would tempt him to neglect the constitutional rights of his department, and to connive at usurpations by the Legislative department, with which he may connect his future ambition or interest.

The clause restraining the first magistrate from the immediate command of the military force would be made better by excepting cases in which he should receive the sanction of the two branches of the Legislature.

Council of State.

The following variations are suggested:

1. The election to be made by the people immediately, or thro' some other medium than the Legislature.

\* New York, where these remarks were penned.

2. A distributive choice should perhaps be secured, as in the case of the Senate. 3. Instead of an ineligibility a second time, a rotation in the Federal Senate, with an abridgment of the term, to be substituted.

The appointment to offices is, of all the functions of Republican, and perhaps every other form of government, the most difficult to guard against abuse. Give it to a numerous body, and you at once destroy all responsibility, and create a perpetual source of faction and corruption. Give it to the Executive wholly, and it may be made an engine of improper influence and favoritism. Suppose the power were divided thus: let the Executive alone make all the subordinate appointments, and the Governor and Senate, as in the Federal Constitution, those of the superior order. It seems particularly fit that the Judges, who are to form a distinct department, should owe their offices partly to each of the other departments, rather than wholly to either.

#### Judiciary.

Much detail ought to be avoided in the Constitutional regulation of this Department, that there may be room for changes which may be demanded by the progressive changes in the state of our population. It is at least doubtful whether the number of courts, the number of Judges, or even the boundaries of jurisdiction, ought to be made unalterable but by a revisal of the Constitution. The precaution seems no otherwise necessary than as it may prevent sudden modifications of the establishment, or addition of obsequious judges, for the purpose of evading the checks of the Constitution and giving effect to some sinister policy of the Legislature. But might not the same object be otherwise attained? by prohibiting, for example, any innovations in those particulars without the consent of that department? or without the annual sanction of two or three successive Assemblies, over and above the other pre-requisites to the passage of a law? .

The model here proposed for a Court of Appeals is not recommended by experience. It is found, as might well be presumed, that the members are always warped in their appellate decisions by an attachment to the principles and jurisdiction of

their respective Courts, and still more so by the previous decision on the case removed by appeal. The only efficient cure for the evil is to form a Court of Appeals of distinct and select Judges. The expense ought not to be admitted as an objection: 1. Because the proper administration of justice is of too essential a nature to be sacrificed to that consideration. 2. The number of inferior judges might, in that case, be lessened. 3. The whole department may be made to support itself by a judicious tax on law proceedings.

The excuse for non-attendance would be a more proper subject of enquiry somewhere else than in the Court to which the party belonged. Delicacy, mutual convenience, &c., would soon reduce the regulation to mere form; or if not, it might become a disagreeable source of little irritations among the members. A certificate from the local Court, or some other local authority, where the party might reside or happen to be detained from his duty, expressing the cause of absence, as well as that it was judged to be satisfactory, might be safely substituted. Few Judges would improperly claim their wages if such a formality stood in the way. These observations are applicable to the Council of State.

A Court of Impeachment is among the most puzzling articles of a Republican Constitution; and it is far more easy to point out defects in any plan than to supply a cure for them. The diversified expedients adopted in the Constitutions of the several States prove how much the compilers were embarrassed on this subject. The plan here proposed varies from all of them, and is, perhaps, not less than any, a proof of the difficulties which pressed the ingenuity of its author. The remarks arising on it are: 1. That it seems not to square with reason that the right to impeach should be united to that of trying the impeachment, and consequently, in a proportional degree, to that of sharing in the appointment of or influence on the Tribunal to which the trial may belong. 2. As the Executive and Judiciary would form a majority of the Court, and either have a right to impeach, too much might depend on a combination of these departments. This objection would be still stronger if



the members of the Assembly were capable, as proposed, of holding offices, and were amenable in that capacity to the Court. 3. The House of Delegates and either of those departments could appoint a majority of the Court. Here is another danger of combination, and the more to be apprehended, as that branch of the Legislature would also have the right to impeach, a right in their hands of itself sufficiently weighty; and as the power of the Court would extend to the head of the Executive, by whose independence the constitutional rights of that Department are to be secured against legislative usurpations. 4. The dangers in the two last cases would be still more formidable, as the power extends not only to deprivation, but to future incapacity of office. In the case of all officers of sufficient importance to be objects of factious persecution, the latter branch of power is, in every view, of a delicate nature. In that of the Chief Magistrate, it seems inadmissible if he be chosen by the Legislature, and much more so if immediately by the people themselves. A temporary incapacitation is the most that could be properly authorised.

The two great desiderata in a Court of Impeachments are: 1. Impartiality. 2. Respectability; the first in order to a right, the second in order to a satisfactory decision. These characteristics are aimed at in the following modification: Let the Senate be denied the right to impeach. Let one-third of the members be struck out, by alternate nominations of the prosecutors and party impeached; the remaining two-thirds to be the *stamen* of the Court. When the House of Delegates impeach, let the Judges, or a certain proportion of them, and the Council of State, be associated in the trial; when the Governor or Council impeaches, let the Judges only be associated; when the Judges impeach, let the Council only be associated. But if the party impeached by the House of Delegates be a member of the Executive or Judiciary, let that of which he is a member not be associated. If the party impeached belong to one and be impeached by the other of these branches, let neither of them be associated, the decision being in this case left with the Senate alone; or if that be thought exceptionable, a few mem-

bers might be added by the House of Delegates. Two-thirds of the Court should in all cases be necessary to a conviction, and the Chief Magistrate, *at least*, should be exempt from a sentence of perpetual, if not of temporary incapacity. It is extremely probable that a critical discussion of this outline may discover objections which do not occur. Some do occur; but appear not to be greater than are incident to any different modification of the Tribunal.

The establishment of trials by jury and *viva voce* testimony, in *all* cases and in *all* Courts, is, to say the least, a delicate experiment; and would most probably be either violated, or be found inconvenient.

Council of Revision.

A revisionary power is meant as a check to precipitate, to unjust, and to unconstitutional laws. These important ends would, it is conceded, be more effectually secured, without disarming the Legislature of its requisite authority, by requiring bills to be separately communicated to the Executive and Judiciary departments. If either of these object, let two-thirds, if both, three-fourths, of each House be necessary to overrule the objection; and if either or both protest against a bill as violating the Constitution, let it moreover be suspended, notwithstanding the overruling proportion of the Assembly, until there shall have been a subsequent election of the House of Delegates and a re-passage of the bill by two-thirds or three-fourths of both houses, as the case may be. It should not be allowed the Judges or the Executive to pronounce a law thus enacted unconstitutional and invalid.

In the State Constitutions, and, indeed, in the Federal one also, no provision is made for the case of a disagreement in expounding them; and as the Courts are generally the last in making the decision, it results to them, by refusing or not refusing to execute a law, to stamp it with its final character. This makes the Judiciary department paramount in fact to the Legislature, which was never intended and can never be proper.

The extension of the Habeas Corpus to the cases in which it has been usually suspended merits consideration at least. If there be emergencies which call for such a suspension, it can

have no effect to prohibit it, because the prohibition will assuredly give way to the impulse of the moment; or rather, it will have the bad effect of facilitating other violations that may be less necessary. The exemption of the press from liability in every case for *true facts* is also an innovation, and, as such, ought to be well considered. This essential branch of liberty is, perhaps, in more danger of being interrupted by local tumults, or the silent awe of a predominant party, than by any direct attacks of power.

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TO THOMAS JEFFERSON.

PHILADELPHIA, October 3d, 1785.

DEAR SIR,—In pursuance of the plan intimated in my last, I came to this city about three weeks ago, from which I continued my trip to New York. I returned last night, and in a day or two shall start for Virginia. Col. Monroe had left Philadelphia a few days before I reached it, on his way to a treaty to be held with the Indians about the end of this month on the Wabash. If a visit to the Eastern States had been his choice, short as the time would have proved, I should have made an effort to attend him. As it is, I must postpone that gratification, with a purpose, however, of embracing it on the first convenient opportunity.

Your favor of the 11 May, by Mons<sup>r</sup> Doradour, inclosing your cypher, arrived in Virginia after I left it, and was sent after me to this place. Your notes which accompanied it remained behind, and consequently I can only now say on that subject that I shall obey your request on my return, which my call to Richmond will give me an early opportunity of doing.

During my stay at New York I had several conversations with the Virginia Delegates, but with few others, on the affairs of the confederacy. I find with much regret that these are, as yet, little redeemed from the confusion which has so long mortified the friends to our national honor and prosperity. Congress have kept the vessel from sinking, but it has been by

standing constantly at the pump, not by stopping the leaks which have endangered her. All their efforts for the latter purpose have been frustrated by the selfishness or perverseness of some part or other of their constituents. The desiderata most strongly urged by our past experience and our present situation are: 1. A final discrimination between such of the unauthorised expences of the States as ought to be added to the common debt, and such as ought not. 2. A constitutional apportionment of the common debt, either by a valuation of the lands, or a change of the article which requires it. 3. A recognition by the States of the authority of Congress to enforce payment of their respective quotas. 4. A grant to Congress of an adequate power over trade.

It is evident to me that the first object will never be effected in Congress, because it requires in those who are to decide it the spirit of impartial judges, whilst the spirit of those who compose Congress is rather that of advocates for the respective interests of their constituents. If this business were referred to a commission filled by a member chosen by Congress out of each State, and sworn to impartiality, I should have hopes of seeing an end of it. The 2<sup>d</sup> object affords less ground of hope. The execution of the 8<sup>th</sup> article of Confederation is generally held impracticable, and Rhode Island, if no other State, has put its veto on the proposed alteration of it. Until the 3<sup>d</sup> object can be obtained, the Requisitions of Congress will continue to be mere calls for voluntary contributions, which every State will be tempted to evade, by the uniform experience that those States have come off best which have done so most. The present plan of federal Government reverses the first principle of all Government. It punishes not the evil-doers, but those that do well. It may be considered, I think, as a fortunate circumstance for the United States, that the use of coercion, or such provision as would render the use of it unnecessary, might be made at little expence and perfect safety. A single frigate under the orders of Congress could make it the interest of any one of the Atlantic States to pay its just quota. With regard to such of the ultramontane States as depend on the trade of

the Mississippi, as small a force would have the same effect; whilst the residue trading through the Atlantic States might be wrought upon by means more indirect, indeed, but perhaps sufficiently effectual.

The fate of the 4<sup>th</sup> object is still suspended. The Recommendations of Congress on this subject, past before your departure, have been positively complied with by few of the States, I believe; but I do not learn that they have been rejected by any. A proposition has been agitated in Congress, and will, I am told, be revived, asking from the States a general and permanent authority to regulate trade, with a proviso that it shall in no case be exercised without the assent of *seven* States in Congress. The Middle States favor the measure: the Eastern are zealous for it; the Southern are divided. Of the Virginia delegation, the president\* is an inflexible adversary. Grayson unfriendly, and Monroe and Hardy warm on the opposite side. If the proposition should pass Congress, its fate will depend much on the reception it may find in Virginia, and this will depend much on the part which may be taken by a few members of the Legislature. The prospect of its being levelled against Great Britain will be most likely to give it popularity.

In this suspense of a general provision for our commercial interests, the more suffering States are seeking relief from partial efforts, which are less likely to obtain it than to drive their trade into other channels, and to kindle heart-burnings on all sides. Massachusetts made the beginning: Pennsylvania has followed with a catalogue of duties on foreign goods and tonnage, which could scarcely be enforced against the smuggler, if New Jersey, Delaware, and Maryland, were to co-operate with her. The avowed object of these duties is to encourage domestic manufactures, and prevent the exportation of coin to pay for foreign. The Legislature had previously repealed the incorporation of the Bank, as the cause of the latter and a great many other evils. South Carolina, I am told, is deliberating on the distresses of her commerce, and will probably concur in

some general plan, with a proviso, no doubt, against any restraint from importing slaves, of which they have received from Africa since the peace about twelve Thousand. She is also deliberating on the emission of paper money, and it is expected she will legalize a suspension of Judicial proceedings, which has been already effected by popular combinations. The pretext for these measures is the want of specie occasioned by the unfavorable balance of trade.

Your introduction of Mr. T. Franklin has been presented to me. The arrival of his Grandfather has produced an emulation among the different parties here in doing homage to his character. He will be unanimously chosen president of the State, and will either restore to it an unexpected quiet or lose his own. It appears, from his answer to some applications, that he will not decline the appointment.

On my journey I called at Mount Vernon, and had the pleasure of finding the General in perfect health. He had just returned from a trip up the Potomac. He grows more and more sanguine as he examines further into the practicability of opening its navigation. The subscriptions are completed within a few shares, and the work is already begun at some of the lesser obstructions. It is overlooked by Rumsey, the inventor of the boats, which I have in former letters mentioned to you. He has not yet disclosed his secret. He had of late nearly finished a boat of proper size, which he meant to have exhibited, but the House which contained it and materials for others was consumed by fire. He assured the General that the enlargement of his machinery did not lessen the prospect of utility afforded by the miniature experiments. The General declines the shares voted him by the Assembly, but does not mean to withdraw the money from the object which it is to aid, and will even appropriate the future tolls, I believe, to some useful public establishment, if any such can be devised that will both please himself and be likely to please the State.

This is accompanied by a letter from our amiable friend, Mrs. Trist, to Miss Patsy. She got back safe to her friends in August, and is as well as she has generally been; but her cheerful-

ness seems to be rendered less uniform than it once was by the scenes of adversity through which fortune has led her. Mrs. House is well, and charges me not to omit her respectful and affectionate compliments to you.

I remain, dear sir, yours.

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TO GENERAL WASHINGTON.

RICHMOND, Nov<sup>r</sup> 11th, 1785.

DEAR SIR,—I received your favor of the 29th ultimo on Thursday. That by Col. Lee had been previously delivered. Your letter for the Assembly was laid before them yesterday. I have reason to believe that it was received with every sentiment which could correspond with yours. Nothing passed from which any conjecture could be formed as to the objects which would be most pleasing for the appropriation of the fund. The disposition is, I am persuaded, much stronger to acquiesce in your choice, whatever it may be, than to lead or anticipate it. I see no inconveniency in your taking time for a choice that will please yourself. The letter was referred to a committee, which will no doubt make such a report as will give effect to your wishes.

Our Session commenced very inauspiciously with a contest for the chair, which was followed by a rigid scrutiny into Mr. Harrison's election in his County. He gained the chair by a majority of six votes, and retained his seat by a majority of still fewer. His residence was the point on which the latter question turned. Doctor Lee's election was questioned on a similar point, and was also established; but it was held to be vacated by his acceptance of a lucrative post under the United States. The House have engaged with some alacrity in the consideration of the Revised Code, prepared by Mr. Jefferson, Mr. Pendleton, and Mr. Wythe. The present temper promises an adoption of it in substance. The greatest danger arises from its length, compared with the patience of the members. If

it is persisted in, it must exclude several matters which are of moment, but, I hope, only for the present Assembly. The pulse of the House of Delegates was felt on Thursday with regard to a general manumission, by a petition presented on that subject. It was rejected without dissent, but not without an avowed patronage of its principle by sundry respectable members. A motion was made to throw it under the table, which was treated with as much indignation on one side as the petition itself was on the other. There are several petitions before the House against any step towards freeing the Slaves, and even praying for a repeal of the law which licences particular manumissions.

The merchants of several of our towns have made representations on the distress of our commerce, which have raised the question whether relief shall be attempted by a reference to Congress, or by measures within our own compass. On a pretty full discussion, it was determined by a large majority that the power over trade ought to be vested in Congress, under certain qualifications. If the qualifications suggested, and no others, should be annexed, I think they will not be subversive of the principle; tho' they will, no doubt, lessen its utility. The Speaker, Mr. M. Smith, and Mr. Braxton, are the champions against Congress. Mr. Thruston and Mr. White have since come in, and I fancy I may set down both as auxiliaries.

They are not a little puzzled, however, by the difficulty of substituting any practicable regulations within ourselves. Mr. Braxton proposed two, that did not much aid his side of the question. The first was, that all British vessels from the West Indies should be excluded from our ports; the second, that no merchant should carry on trade here until he should have been a resident — years. Unless some plan free from objection can be devised for this State, its patrons will be reduced clearly to the dilemma of acceding to a general one, or leaving our trade under all its present embarrassments. There was some little skirmishing on the ground of public faith, which leads me to hope that its friends have less to fear than was surmised. The Assize and Port Bills have not yet been awakened. The Senate will make a House to-day for the first time.



Inclosed herewith are two Reports from the commissioners for examining the head of James River, &c., and the ground between the waters of Elizabeth River and North Carolina; also, a sensible pamphlet said to be written by St. George Tucker.

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[Notes of a speech made by Mr. Madison in the House of Delegates of Virginia, in the month of November, 1785, on the question of vesting in Congress the general power of regulating commerce for all the States:]

I. General regulations necessary, whether the object be to—

1. Counteract foreign plans.
2. Encourage ships and seamen.
3. ——— manufactures.
4. Revenue.
5. Frugality; [articles of luxury most easily run from State to State.]
6. Embargo's in war—Case of Delaware in late war.

II. Necessary to prevent contention among States.

1. Case of French Provinces; Neckar says 23,000 patrols employed against internal contrabands.
2. Case of Massachusetts and Connecticut.
3. Case of New York and New Jersey.
4. Pennsylvania and Delaware.
5. Virginia and Maryland, late regulation.
6. Irish propositions.

III. Necessary to justice and true policy.

1. Connecticut and New Hampshire.
2. New Jersey.
3. North Carolina.
4. Western Country.

IV. Necessary as a system convenient and intelligible to foreigners trading to the United States.

V. Necessary as within reason of Federal Constitution, the regulation of trade being as impracticable by States as peace, war, ambassadors, &c.

Treaties of commerce ineffectual without it.

VI. Safe with regard to the liberties of the States.

1. Congress may be trusted with trade as well as war, &c.
2. Power of Treaties involve the danger, if any.
3. Controul of States over Congress.
4. Example of Amphyectionic League, Achæan, &c., Switzerland, Holland, Germany.
5. Peculiar situation of United States increases the repellant power of the States.

VII. Essential to preserve federal Constitution.

1. Declension of federal Government.
2. Inadequacy to end must lead States to substitute some other policy—no institution remaining long when it ceases to be useful, &c.
3. Policy of Great Britain to weaken Union.

VIII. Consequences of dissolution of confederacy.

1. Appeal to sword in every petty squabble.
2. Standing armies, beginning with weak and jealous States.
3. Perpetual taxes.
4. Sport of foreign politics.
5. Blast glory of Revolution.

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TO THO<sup>s</sup> JEFFERSON.

RICHMOND, Nov. 15th, 1785.

DEAR SIR,—I acknowledged from Philadelphia your favor of the 11th May. On my return to Orange, I found the copy of your notes brought along with it by Mr. Doradour. I have looked them over carefully myself, and consulted several judicious friends in confidence. We are all sensible that the freedom of your strictures on some particular measures and opinions will displease their respective abettors. But we equally concur in thinking that this consideration ought not to be weighed against the utility of your plan. We think both the facts and remarks which you have assembled too valuable not to be made known, at least to those for whom you destine them, and speak

of them to one another in terms which I must not repeat to you. Mr. Wythe suggested that it might be better to put the number you may allot to the University into the library, rather than to distribute them among the students. In the latter case, the stock will be immediately exhausted. In the former, the discretion of the professors will make it serve the students as they successively come in. Perhaps, too, an *indiscriminate gift* might offend some narrow-minded parents.

Mr. Wythe desired me to present you with his most friendly regards. He mentioned the difficulty he experiences in using his pen as an apology for not giving these assurances himself. I postpone my account of the Assembly till I can make it more satisfactory, observing only that we are at work on the Revision, and I am not without hopes of seeing it pass this session, with as few alterations as could be expected. Some are made unavoidable by a change of circumstances. The greatest danger is to be apprehended from the impatience which a certain lapse of time always produces.

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TO JAMES MONROE.

RICHMOND, December 9th, 1785.

DEAR SIR,—Supposing that you will be at New York by the time this reaches it, I drop a few lines for the post of to-day. Mr. Jones tells me he informed you that a substitute had been brought forward to the commercial propositions which you left on the carpet. The subject has not since been called up. If any change has taken place in the mind of the House, it has not been unfavorable to the idea of confiding to Congress a power over trade. I am far from thinking, however, that a perpetual power can be made palatable at this time. It is more probable that the other idea of a Convention of Commissioners to Annapolis, from the States, for deliberating on the state of commerce and the degree of power which ought to be lodged in Congress, will be attempted. Should it fail in the House, it is possible that a revival of the printed propositions, with an ex-

tension of their term to twenty-five years, will be thought on by those who contend that something of a general nature ought to be done. My own opinion is unaltered. The propositions for a State effort have passed, and a bill is ordered in, but the passage of the bill will be a work of difficulty and uncertainty; many having acquiesced in the preliminary stages who will strenuously oppose the measure in its last stages.

No decisive vote has been yet taken on the assize bill. I conceive it to be in some danger, but that the chance is in its favour. The case of the British debts will be introduced in a day or two. We have got through more than half of the Revisional. The criminal bill has been assailed on all sides. Mr. Mercer has proclaimed unceasing hostility against it. Some alterations have been made, and others probably will be made, but I think the main principle of it will finally triumph over all opposition. I had hoped that this session would have finished the code, but a vote against postponing the further consideration of it till the next was carried by so small a majority, that I perceive it will be necessary to contend for nothing more than a few of the more important bills, leaving the residue of them for another year.

My proposed amendment to the report on the Memorial of Kentucky was agreed to in a Committee of the whole without alteration, and with very few dissents. It lies on the table for the ratification of the House. The members from that district have become extremely cold on the subject of an immediate separation. The half tax is postponed till March, and the September tax till November next. Not a word has passed in the House as to a paper emission. I wish to hear from you on your arrival at New York, and to receive, in particular, whatever you may be at liberty to disclose with regard to the Treaty of peace, &c., with Great Britain.

## TO GENERAL WASHINGTON.

RICHMOND, December 9th, 1785.

DEAR SIR,—Your favor of November 30 was received a few days ago. This would have followed much earlier the one which yours acknowledges, had I not wished it to contain some final information relative to the commercial propositions. The discussion of them has consumed much time, and though the absolute necessity of some such general system prevailed over all the efforts of its adversaries in the first instance, the stratagem of limiting its duration to a short term has ultimately disappointed our hopes. I think it better to trust to further experience, and even distress, for an adequate remedy, than to try a temporary measure, which may stand in the way of a permanent one, and confirm that transatlantic policy which is founded on our supposed distrust of Congress and of one another.

Those whose opposition in this case did not spring from illiberal animosities towards the Northern States seem to have been frightened, on one side, at the idea of a perpetual and irrevocable grant of power, and, on the other, flattered with a hope that a temporary grant might be renewed from time to time, if its utility should be confirmed by the experiment. But we have already granted perpetual and irrevocable powers of a more extensive nature than those now proposed, and for reasons not stronger than the reasons which urge the latter. And as to the hope of renewal, it is the most visionary one that perhaps ever deluded men of sense.

Nothing but the peculiarity of our circumstances could ever have produced those sacrifices of sovereignty on which the federal Government now rests. If they had been temporary, and the expiration of the term required a renewal at this crisis, pressing as the crisis is, and recent as is our experience of the value of the Confederacy, sure I am that it would be impossible to revive it. What room have we, then, to hope that the expiration of temporary grants of commercial powers would always find a unanimous disposition in the States to follow their own example?

It ought to be remembered, too, that besides the caprice, jealousy, and diversity of opinions, which will be certain obstacles in our way, the policy of foreign nations may hereafter imitate that of the Macedonian Prince who effected his purposes against the Grecian Confederacy by gaining over a few of the leading men in the smaller members of it. Add to the whole, that the difficulty now found in obtaining a unanimous concurrence of the States in any measure whatever must continually increase with every increase of their numbers, and, perhaps, in a greater ratio, as the ultramontane States may either have, or suppose they have, a less similitude of interests to the Atlantic States than these have to one another.

The propositions, however, have not yet received the final vote of the House, having lain on the table for some time as a report from the committee of the whole. The question was suspended in order to consider a proposition which had for its object a meeting of Politico-commercial Commissioners from all the States, for the purpose of digesting and reporting the requisite augmentation of the power of Congress over trade.

What the event will be cannot be foreseen. The friends of the original propositions are, I am told, rather increasing; but I despair of a majority, in any event, for a longer term than 25 years for their duration. The other scheme will have fewer enemies, and may, perhaps, be carried. It seems naturally to grow out of the proposed appointment of Commissioners for Virginia and Maryland, concerted at Mount Vernon, for keeping up harmony in the commercial regulations of the two States. Maryland has ratified the Report; but has invited into the plan Delaware and Pennsylvania, who will naturally pay the same compliment to their neighbours, &c.

Besides the general propositions on the subject of trade, it has been proposed that some intermediate measures should be taken by ourselves; and a sort of navigation act will, I am apprehensive, be attempted. It is backed by the mercantile interest of most of our towns, except Alexandria, which alone seems to have liberality and light on the subject. It was refused even to suspend the measure on the concurrence of Maryland or N.

Carolina. This folly, however, cannot, one would think, brave the ruin which it threatens to our Merchants, as well as people at large, when a final vote comes to be given.

We have got through a great part of the Revisal, and might by this time have been at the end of it, had the time wasted in disputing whether it could be finished at this session been spent in forwarding the work. As it is, we must content ourselves with passing a few more of the important Bills, leaving the residue for our successors of the next year. As none of the Bills passed are to be in force till January, 1787, and the residue unpassed will probably be least disputable in their nature, this expedient, tho' little eligible, is not inadmissible.

Our public credit has had a severe attack and a narrow escape. As a compromise, it has been necessary to set forward the half tax till March, and the whole tax of September next till November ensuing. The latter postponement was meant to give the planters more time to deal with the Merchants in the sale of their Tobacco, and is made a permanent regulation. The Assize Bill is now depending. It has many enemies, and its fate is precarious. My hopes, however, prevail over my apprehensions. The fate of the Port Bill is more precarious. The failure of an interview between our Commissioners and Commissioners on the part of North Carolina has embarrassed the projected Canal between the waters of the two States. If North Carolina were entirely well disposed, the passing an act suspended on and referred to her Legislature would be sufficient; and this course must, I suppose, be tried, tho' previous negotiation would have promised more certain success.

Kentucky has made a formal application for Independence. Her memorial has been considered and the terms of separation fixed by a committee of the whole. The substance of them is, that all private rights and interests derived from the laws of Virginia shall be secured; that the unlocated lands shall be applied to the objects to which the laws of Virginia have appropriated them; that non-residents shall be subjected to no higher taxes than residents; that the Ohio shall be a common highway for Citizens of the United States, and the jurisdiction of

Kentucky and Virginia, as far as the remaining territory of the latter will lie thereon, be concurrent only with the new States on the opposite shore; that the proposed State shall take its due share of our State debts; and that the separation shall not take place unless these terms shall be approved by a Convention to be held to decide the question, nor until Congress shall assent thereto, and fix the terms of their admission into the Union. The limits of the proposed State are to be the same with the present limits of the District. The apparent coolness of the Representatives of Kentucky as to a separation since these terms have been defined indicates that they had some views which will not be favored by them. They disliked much to be hung up on the will of Congress.

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TO JAMES MONROE.

RICHMOND, December 21, 1785.

DEAR SIR,—The proceedings of the Assembly since my last, dated this day week, have related: 1. To the Bill for establishing Religious freedom in the Revisal. 2. A Bill concerning British debts. 3. A Bill concerning the Proprietary interest in the Northern neck. 4. For reforming the County Courts. The first employed the House of Delegates several days, the preamble being the principal subject of contention. It at length passed without alteration. The Senate, I am told, have exchanged, after equal altercation, the preamble of the revisal for the last clause in the Declaration of Rights; an exchange which was proposed in the House of Delegates and negatived by a considerable majority. I do not learn that they have made, or will make, any other alteration.

The Bill for the payment of British debts is nearly a transcript of that which went through the two Houses last year, except that it leaves the periods of instalment blank, and gives the creditor an opportunity of taking immediate execution for the whole debt, if the debtor refuses to give security for complying with the instalments. The Bill was near being put off to the



next session on the second reading. A majority were for it; but having got inadvertently into a hobble, from the manner in which the question was put, the result was, that Monday next should be appointed for its consideration. The arrival and sentiments of Col. Grayson will be favorable to some provision on the subject. A clause is annexed to the Bill authorising the Executive to suspend its operation, in case Congress shall signify the policy of so doing. The general cry is, that the Treaty ought not to be executed here until the posts are surrendered, and an attempt will be made to suspend the operation of the Bill on that event, or, at least, on the event of a positive declaration from Congress that it ought to be put in force. The last mode will probably be fixed on, notwithstanding its departure from the regular course of proceeding, and the embarrassment in which it may place Congress.

The Bill for reforming the County Courts proposes to select five Justices, who are to sit quarterly, be paid scantily, and to possess the civil jurisdiction of the County courts, and the criminal jurisdiction of the General Court, under certain restrictions. It is meant as a substitute for the Assize system, to all the objections against which it is liable, without possessing its advantages. It is uncertain whether it will pass at all, or what form it will finally take. I am inclined to think it will be thrown out. The Bill relating to the Northern Neck passed the House of Delegates yesterday. It removes the records into the Land office here, assimilates locations of surplus land to the general plan, and abolishes the Quit-rent. It was suggested that the latter point was of a judiciary nature, that it involved questions of fact, of law, and of the Treaty of peace, and that the representatives of the late proprietor ought at least to be previously heard, according to the request of their Agent. Very little attention was paid to these considerations, and the bill passed *almost* unanimously.

TO JAMES MONROE.

RICHMOND, Dec<sup>r</sup> 30th, 1785.

DEAR SIR,—The past week has been rendered important by nothing but some discussions on the subject of British debts. The bill brought in varied from that which miscarried last year: 1. By adding provision in favor of the creditors for *securing* payment at the dates of the instalments. 2. By annexing a clause empowering the Executive to suspend the operation of the act in case Congress should notify their wish to that effect. Great difficulty was found in drawing the House into Committee on the subject. It was at length effected on Wednesday. The changes made in the Bill by the Committee are: 1. Striking out the clause saving the Creditors from the act of limitation, which makes the whole a scene of mockery. 2. Striking out the provision for securities. 3. Converting the clause authorizing Congress to direct a suspension of the act into a clause suspending it until Congress should notify to the Executive that Great Britain had complied with the Treaty on her part, *or that they were satisfied with the steps taken by her for evacuating the posts, paying for Negroes, and for a full compliance with the Treaty.* The sentence underlined was proposed as an amendment to the amendment, and admitted by a very small majority only. 4. Exonerating the public from responsibility for the payments into the Treasury by British debtors beyond the real value of the liquidated paper. Since these proceedings of the Committee of the whole the subject has slept on the table, no one having called for the report. Being convinced myself that nothing can be now done that will not extremely dishonor us and embarrass Congress, my wish is that the report may not be called for at all.

In the course of the debates no pains were spared to disparage the Treaty by insinuations against Congress, the Eastern States, and the negociators of the Treaty, particularly J. Adams. These insinuations and artifices explain, perhaps, one of the motives from which the augmentation of the federal powers and respectability has been opposed.

The reform of the County Courts has dwindled into directions for going through the docket quarterly, under the same penalties as now oblige them to do their business monthly. The experiment has demonstrated the impracticability of rendering these courts fit instruments of Justice; and if it had preceded the Assize Question, would, I think, have ensured its success. Some wish to renew this question in a varied form, or at least under a varied title, but the session is too near its period for such an attempt. When it will end I know not. The business depending would employ the House till March. A system of navigation and commercial regulations for this State alone is before us, and comprises matter for a month's debate. The compact with Maryland has been ratified. It was proposed to submit it to Congress for their sanction, as being within the word *Treaty* used in the Confederation. This was opposed. It was then attempted to transmit it to our Delegates, to be by them simply laid before Congress. Even this was negatived by a large majority.

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TO THOMAS JEFFERSON.

RICHMOND, January 22d, 1786.

DEAR SIR,—My last, dated November 15th, from this place, answered yours of May 11th, on the subject of your printed notes. I have since had opportunities of consulting other friends on the plan you propose, who concur in the result of the consultations which I transmitted you. Mr. Wythe's idea seems to be generally approved; that the copies destined for the University should be dealt out by the discretion of the Professors, rather than indiscriminately and at once put into the hands of the students, which, other objections apart, would at once exhaust the stock. A vessel from Havre de Grace brought me a few days ago two Trunks of Books, but without letter or catalogue attending them. I have forwarded them to Orange without examining much into the contents, lest I should miss a conveyance which is very precarious at this season, and be de-

prived of the amusement they promise me for the residue of the winter.

Our Assembly last night closed a session of 97 days, during the whole of which, except the first seven, I have shared in the confinement. It opened with a very warm struggle for the chair between Mr. Harrison and Mr. Tyler, which ended in the victory of the former by a majority of six votes. This victory was shortly afterwards nearly frustrated by an impeachment of his election in the County of Surry. Having failed in his native County of Charles City, he abdicated his residence there, removed into the County of Surry, where he had an estate, took every step which the interval would admit to constitute himself an inhabitant, and was, in consequence, elected a representative. A charge of non-residence was, nevertheless, brought against him, decided against him in the committee of privileges by the casting vote of the Chairman, and reversed in the House by a very small majority. The election of Doctor Lee was attacked on two grounds: 1<sup>st</sup>, of non-residence; 2<sup>dly</sup>, of holding a lucrative office under Congress. On the 1<sup>st</sup> he was acquitted; on the 2<sup>d</sup>, expelled by a large majority.

The revised Code was brought forward pretty early in the session. It was first referred to Committee of Courts of Justice, to report such of the bills as were not of a temporary nature, and, on their report, committed to committee of the whole. Some difficulties were raised as to the proper mode of proceeding, and some opposition made to the work itself. These, however, being surmounted, and three days in each week appropriated to the task, we went on slowly but successfully, till we arrived at the bill concerning crimes and punishments. Here the adversaries of the Code exerted their whole force, which, being abetted by the impatience of its friends in an advanced stage of the session, so far prevailed that the farther prosecution of the work was postponed till the next session.

The operation of the bills passed is suspended until the beginning of 1787, so that, if the code should be resumed by the next Assembly and finished early in the session, the whole system may commence at once. I found it more popular in the

Assembly than I had formed any idea of, and though it was considered by paragraphs, and carried through all the customary forms, it might have been finished at one session with great ease, if the time spent on motions to put it off and other dilatory artifices had been employed on its merits. The adversaries were the Speaker, Thruston, and Mercer, who came late in the session into a vacancy left by the death of Col. Brent, of Stafford, and contributed principally to the mischief.

The titles in the enclosed list will point out to you such of the bills as were adopted from the Revisal. The alterations which they underwent are too numerous to be specified, but have not materially vitiated the work. The bills passed over were either temporary ones, such as, being not essential as parts of the system, may be adopted at any time, and were likely to impede it at this, or such as have been rendered unnecessary by acts passed since the epoch at which the revisal was prepared. After the completion of the work at this session was despaired of, it was proposed and decided that a few of the bills following the bill concerning crimes and punishments should be taken up, as of peculiar importance.

The only one of these which was pursued into an Act is the Bill concerning Religious freedom. The steps taken throughout the Country to defeat the General Assessment had produced all the effect that could have been wished. The table was loaded with petitions and remonstrances from all parts against the interposition of the Legislature in matters of Religion. A general Convention of the Presbyterian church prayed expressly that the bill in the revisal might be passed into a law, as the best safeguard, short of a Constitutional one, for their religious rights. The bill was carried thro' the House of Delegates without alteration. The Senate objected to the preamble, and sent down a proposed substitution of the 16<sup>th</sup> article of the Declaration of Rights. The House of Delegates disagreed. The Senate insisted, and asked a Conference. Their objections were frivolous indeed. In order to remove them, as they were understood by the Managers of the House of Dele-

gates, the preamble was sent up again from the House of Delegates with one or two verbal alterations. As an amendment to these the Senate sent down a few others, which, as they did not affect the substance, though they somewhat defaced the composition, it was thought better to agree to than to run further risks, especially as it was getting late in the Session and the House growing thin. The enacting clauses past without a single alteration, and I flatter myself have, in this country, extinguished forever the ambitious hope of making laws for the human mind.

*Acts not included in the Revision.*

For the naturalization of the Marquis de La Fayette.

This was brought forward by Col. Henry Lee, Jr., and passed without opposition. It recites his merits towards this Country, and constitutes him a Citizen of it.

To amend the act vesting in Genl Washington certain shares in the River Companies.

The donation presented to Genl Washington embarrassed him much. On one side, he disliked the appearance of slighting the bounty of his Country, and of an ostentatious disinterestedness. On the other, an acceptance of reward in any shape was irreconcilable with the law he had imposed on himself. His answer to the Assembly declined in the most affectionate terms the emolument allotted to himself, but intimated his willingness to accept it so far as to dedicate it to some public and patriotic use. This act recites the original act and his answer, and appropriates the future revenue from the shares to such public objects as he shall appoint. He has been pleased to ask my ideas with regard to the most proper objects. I suggest, in general only, a partition of the fund between some institution which would please the philosophical world, and some other which may be of a popular cast. If your knowledge of the several institutions in France or elsewhere should suggest models or hints, I could wish for your ideas on the case, which no less concern the good of the Commonwealth than the character of its most illustrious citizen.

An act empowering the Governor and Council to grant Conditional pardons in certain cases.

This act gives the Executive a power in such cases for one year. It passed before the bill in the revision on this subject was taken up, and was urged against the necessity of passing it at this Session. The expiration of this act at the next Session will become an argument on the other side.

An act giving powers to the Governor and Council in certain cases.

This act empowers the Executive to confine or send away suspicious aliens, on notice from Congress that their sovereigns have declared or commenced hostilities against the United States, or that the latter have declared war against such sovereigns. It was occasioned by the arrival of two or three Algerines here, who, having no apparent object, were suspected of an unfriendly one. The Executive caused them to be brought before them, but found themselves unarmed with power to proceed. These adventurers have since gone off.

Act for safe keeping land papers of the Northern Neck.

Abolishes the quit-rent, and removes the papers to the Register's office.

Act for reforming County Courts.

Requires them to clear their dockets quarterly. It amounts to nothing, and is chiefly the result of efforts to render Courts of Assize unnecessary.

Act to suspend the operation of the act establishing Courts of Assize.

The latter act, passed at the last session, required sundry supplemental regulations to fit it for operation. An attempt to provide these, which involved the merits of the innovation, drew forth the united exertions of its adversaries. On the question on the supplemental bill, they prevailed by 63 votes against 49. The best that could be done in this situation was to suspend instead of repealing the original act, which will give another chance to our successors for introducing the proposed reform. The various interests opposed to it will never be conquered without considerable difficulty.

Resolution proposing a general meeting of commissioners from the States to consider and recommend a federal plan for regulating commerce; and appointing as commissioners from Virginia, E<sup>d</sup> Randolph, J<sup>s</sup> Madison, Jr., Walter Jones, S<sup>t</sup> G. Tucker, M. Smith, G. Mason, and David Ross, who are to communicate the proposal and suggest time and place of meeting.

The necessity of harmony in the commercial regulations of the States has been rendered every day more apparent. The local efforts to counteract the policy of Great Britain, instead of succeeding, have in every instance recoiled more or less on the States which ventured on the trial. Notwithstanding these lessons, the Merchants of this State, except those of Alexandria, and a few of the more intelligent individuals elsewhere, were so far carried away by their jealousies of the Northern Marine as to wish for a navigation Act confined to this State alone. In opposition to those narrow ideas, the printed proposition herewith inclosed was made. As printed, it went into a Committee of the whole. The alterations of the pen shew the state in which it came out. Its object was to give Congress such direct power only as would not alarm, but to limit that of the States in such manner as would indirectly require a conformity to the plans of Congress. The renunciation of the right of laying duties on imports from other States would amount to a prohibition of duties on imports from foreign Countries, unless similar duties existed in other States. This idea was favored by the discord produced between several States by rival and adverse regulations. The evil had proceeded so far between Connecticut and Massachusetts that the former laid heavier duties on imports from the latter than from Great Britain, of which the latter sent a letter of complaint to the Executive here, and I suppose to the other Executives. Without some such self-denying compact, it will, I conceive, be impossible to preserve harmony among the contiguous States.

In the Committee of the whole the proposition was combated at first on its general merits. This ground was, however, soon changed for that of its perpetual duration, which was reduced first to 25 years, then to 13 years. Its adversaries were the Speaker, Thruston, and Corbin; they were bitter and illiberal



against Congress and the Northern States beyond example. Thruston considered it as problematical whether it would not be better to encourage the British than the Eastern marine. Braxton and Smith were in the same sentiments, but absent at this crisis of the question.

The limitation of the plan to 13 years so far destroyed its value in the judgment of its friends, that they chose rather to do nothing than to adopt it in that form. The report accordingly remained on the table uncalled for to the end of the session. And on the last day the resolution above quoted was substituted. It had been proposed by Mr. Tyler immediately after the miscarriage of the printed proposition, but was left on the table till it was found that several propositions for regulating our trade without regard to other States produced nothing. In this extremity, the resolution was generally acceded to, not without the opposition of Corbin and Smith. The Commissioners first named were the Attorney, Doctor Jones, and myself. In the House of Delegates, Tucker and Smith were added, and in the Senate, Mason, Ross, and Ronald. The last does not undertake.

The port bill was attacked and nearly defeated. An amendatory bill was passed with difficulty thro' the House of Delegates, and rejected in the Senate. The original one will take effect before the next session, but will probably be repealed then. It would have been repealed at this, if its adversaries had known their strength in time and exerted it with judgment.

A Bill was brought in for paying British debts, but was rendered so inadequate to its object by alterations inserted by a committee of the whole, that the patrons of it thought it best to let it sleep.

Several petitions (from Methodists, chiefly) appeared in favor of a gradual abolition of slavery, and several from another quarter for a repeal of the law which licences private manumissions. The former were not thrown under the table, but were treated with all the indignity short of it. A proposition for bringing in a bill conformably to the latter was decided in

the affirmative by the casting voice of the Speaker; but the bill was thrown out on the first reading by a considerable majority.

A considerable itch for paper money discovered itself, though no overt attempt was made. The partizans of the measure, among whom Mr. M. Smith may be considered as the most zealous, flatter themselves, and I fear upon too good ground, that it will be among the measures of the next session. The unfavorable balance of trade and the substitution of facilities in the taxes will have dismissed the little specie remaining among us and strengthened the common argument for a paper medium.

Act for postponing the tax of the present year, and admitting facilities in payment.

This tax was to have been collected in September last, and had been in part actually collected in specie. Notwithstanding this and the distress of public credit, an effort was made to remit the tax altogether. The party was headed by Braxton, who was courting an appointment into the Council. On the question for a third reading, the affirmative was carried by 52 against 42. On the final question, a vigorous effort on the negative side, with a reinforcement of a few new members, threw the bill out. The victory, however, was not obtained without subscribing to a postponement instead of remission, and the admission of facilities instead of specie. The postponement, too, extends not only to the tax which was under collection, and which will not now come in till May, but to the tax of September next, which will not now be in the Treasury till the beginning of next year. The wisdom of seven sessions will be unable to repair the mischiefs of this single act.

Act concerning the erection of Kentucky into an independent State.

This was prayed for by a memorial from a Convention held in Kentucky, and passed without opposition. It contains stipulations in favor of territorial rights held under the laws of Virginia, and suspends the actual separation on the decision of a Convention authorized to meet for that purpose, and on the assent of Congress. The boundary of the proposed State is to remain the same as the present boundary of the district.

Act to amend the  
Militia law.

At the last session of 1784 an act passed displacing all the militia officers, and providing for the appointment of experienced men. In most counties it was carried into execution, and generally much to the advantage of the militia. In consequence of a few petitions against the law as a breach of the Constitution, this act reverses all the proceedings under it, and reinstates the old officers.

Act to extend the operation of the Escheat law to the Northern neck.

From the peculiar situation of that district, the Escheat law was not originally extended to it. Its extension at this time was occasioned by a bill brought in by Mr.

Mercer for seizing and selling the deeded land of the late Lord Fairfax, on the ground of its being devised to aliens, leaving them at liberty, indeed, to assert their pretensions before the Court of Appeals. As the bill, however, stated the law and the fact, and excluded the ordinary inquest, in the face of pretensions set up even by a citizen, (Martin,) to whom it is said the reversion is given by the will, it was opposed as exerting at least a Legislative interference in, and improper influence on, the Judiciary question. It was proposed to substitute the present act as an amendment to the bill in a committee of the whole; which was disagreed to. The bill being of a popular cast went through the House of Delegates by a great majority. In the Senate it was rejected by a greater one, if not unanimously. The extension of the escheat law was, in consequence, taken up and passed.

"An act for punishing  
certain offences."

To wit: attempts to dismember the State without the consent of the Legislature. It is pointed against the faction headed by Arthur Campbell, in the County of Washington.

Act for amending the  
appropriating Act.

Complies with the requisition of Congress for the present year, to wit: 1786. It directs 512,000 dollars, the quota of this State, to be paid before May next, the time fixed by Congress, altho' it is known that the postponement of the taxes renders the payment of a shilling impossible. Our payments last year gained us a little reputation. Our conduct this must stamp us with ignominy.

Act for regulating the salaries of the civil list.

greater, and some at a less proportion.

Act for disposing of waste lands on Eastern waters.

The price is fixed at £25 per Hundred acres, at which not an acre will be sold.

An act imposing additional tonnage on British vessels.

Reduces that of the Governor from £1,000 to £800, and the others, some at a

Meant chiefly to affect vacant land in the Northern Neck, erroneously conceived to be in great quantity and of great value.

Amounting in the whole to five shillings per ton.

Nothing has been yet done with North Carolina towards opening a Canal through the Dismal. The powers given to Commissioners on our part are renewed, and some negociation will be brought about if possible. A certain interest in that State is suspected of being disinclined to promote the object, notwithstanding its manifest importance to the community at large. On Potowmac they have been at work some time. On this river they have about eighty hands ready to break ground, and have engaged a man to plan for them. I fear there is a want of skill for the undertaking that threatens a waste of labour and a discouragement to the enterprize. I do not learn that any measures have been taken to procure from Europe the aid which ought to be purchased at any price, and which might, I should suppose, be purchased at a moderate one.

I had an opportunity a few days ago of knowing that Mrs. Carr and her family, as well as your little daughter, were well. I am apprehensive that some impediments still detain your younger nephew from his destination. Peter has been in Williamsburg, and I am told by Mr. Maury that his progress is satisfactory. He has read, under him, Horace, some of Cicero's orations, Greek testament, Æsop's fables in Greek, ten books of Homer's Iliad, and is now beginning Xenophon, Juvenal, and Livy. He has also given some attention to French.

I have paid Le Maire ten guineas. He will set out in about three weeks, I am told, for France. Mr. Jones has promised to collect and forward by him all such papers as are in print, and will explain the situation of our affairs to you. Among

them will be the most important acts of the session, and the Journal as far as it will be printed.

Mr. William Hays, in sinking a well on the declivity of the hill above the proposed seat of the Capitol, and nearly in a line from the Capitol to Belvidere, found about seventy feet below the surface several large bones, apparently belonging to a fish not less than the shark, and, what is more singular, several fragments of potter's ware in the style of the Indians. Before he reached these curiosities he passed through about fifty feet of soft blue clay. I have not seen the articles, having but just heard of them, and been too closely engaged; but have my information from the most unexceptionable witnesses, who have. I am told by General Russell, of Washington County, that, in sinking a salt well in that County, he fell in with the hip bone of the incognitum, the socket of which was about 8 inches diameter. It was very soft in the subterraneous state, but seemed to undergo a petrefaction on being exposed to the air.

Adieu. Affection<sup>ly</sup>.

*Promotions.*—Edward Carrington & H. Lee, Jr., added to R. H. Lee, J's Monroë, and Wm. Grayson, in the delegation to Congress.

Carter Braxton to the Council.

John Tyler to court of admiralty, in room of B. Waller, resigned.

*Prices current.*—Tobacco, 23s. on James River, and proportionally elsewhere.

Wheat, 5 to 6s. per bushel.

Corn, 18 to 20s. per barrel.

Pork 28 to 30s pr ct.

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TO JAMES MONROE.

RICHMOND. January 22d. 1786.

DEAR SIR,—Your favors of the 19th December and 7th January came both to hand by yesterday's mail. The Assembly ad-

journed last night after a session of 97 days. If its importance were to be measured by a list of the laws which it has produced, all preceding Legislative merit would be eclipsed, the number in this instance amounting to 114 or 115. If we recur to the proper criterion, no session has, perhaps, afforded less ground for applause. Not a single member seems to be pleased with a review of what has passed. I was too hasty in informing you that an amendment of the Port bill had passed. I was led into the error by the mistake of some who told me it had passed the Senate, when it had only been agreed to in a Committee of the Senate. Instead of passing it, they sent down a repeal of the old port bill by way of amendment. This was disagreed to by the House of Delegates as indirectly originating. The Senate adhered, and the bill was lost. An attempt was then made by the adversaries of the port measure to suspend its operation till the end of the next session. This also was negatived, so that the old bill is left as it stood, without alteration. Defective as it is, particularly in putting citizens of other States on the footing of foreigners, and destitute as it is of proper concomitant provisions, it was judged best to hold it fast, and trust to a succeeding Assembly for amendments.

The navigation system for the State, after having been prepared at great length by Mr. G. Baker, was procrastinated in a very singular manner, and finally died away of itself, without anything being done, except a short act passed yesterday in great hurry, imposing a tonnage of 5 shillings on the vessels of foreigners not having treated with the United States.

This failure of local measures in the commercial line, instead of reviving the original propositions for a general plan, revived that of Mr. Tyler for the appointment of Commissioners to meet Commissioners from the other States on the subject of general regulations. It went through by a very great majority, being opposed only by Mr. M. Smith and Mr. Corbin. The expedient is no doubt liable to objections, and will probably miscarry. I think, however, it is better than nothing; and as a recommendation of additional powers to Congress is within the purview of the Commission, it may possibly lead to better con-

sequences than at first occur. The Commissioners first named were the attorney, Doctor W. Jones of the Senate, and myself. The importunity of Mr. Page procured the addition of St George Tucker, who is sensible, federal, and skilled in commerce, to whom was added, on the motion of I know not whom, Mr. M. Smith, who is at least exceptionable in the second quality, having made unceasing war during the session against the idea of bracing the federal system. In the senate, a further addition was made of Col. Mason, Mr. D. Ross, and Mr. Ronald. The name of the latter was struck out at his desire. The others stand. It is not unlikely that this multitude of associates will stifle the thing in its birth. By some it was probably meant to do so.

I am glad to find that Virginia has merit where you are, and should be more so if I saw greater reason for it. The bill which is considered at New York as a compliance with the requisitions of Congress, is more so in appearance than reality. It will bring no specie into the Treasury, and but little Continental paper. Another act has since passed which professes to comply more regularly with the demand of Congress, but this will fail as to *specie* and as to *punctuality*. It will probably procure the indents called for, and fulfils the views of Congress in making those of other States receivable into our Treasury. Among the acts passed since my last, I must not omit an economical revision of the Civil list. The saving will amount to 5 or 6,000 pounds. The Governor was reduced by the House of Delegates to £800, to which the Senate objected. Which receeded I really forget. The Council to £2,000; the Attorney to £200; Register from £1,100 to £800; Auditor and Solicitor from £4 to 300; Speaker of House of Delegates to 40s. per day, including daily pay as a member; and of Senate to 20s. &c.; Delegates to Congress to six dollars per day. The act, however, is not to commence till November next.

TO THOMAS JEFFERSON.

ORANGE, March 18th, 1786.

DEAR SIR,—Your two favours of the 1 and 20 September, under the same cover, by Mr. Fitzhugh, did not come to hand till the 24th ultimo, and of course till it was too late for any Legislative interposition with regard to the Capitol. I have written to the Attorney on the subject. A letter which I have from him, dated prior to his receipt of mine, takes notice of the plan you had promised, and makes no doubt that it will arrive in time for the purpose of the Commissioners. I do not gather from his expressions, however, that he was aware of the change which will become necessary in the foundation already laid, a change which will not be submitted to without reluctance, for two reasons: 1. The appearance of caprice to which it may expose the Commissioners. 2. Which is the material one, the danger of retarding the work till the next session of Assembly can interpose a vote for its suspension, and possibly for a removal to Williamsburg. This danger is not altogether imaginary. Not a session has passed since I became a member without one or other or both of these attempts.

At the late session a suspension was moved by the Williamsburg interest, which was within a few votes of being agreed to. It is a great object, therefore, with the Richmond interest, to get the buildings so far advanced before the fall as to put an end to such experiments. The circumstances which will weigh in the other scale, and which, it is to be hoped, will preponderate, are the fear of being reproached with sacrificing public considerations to a local policy, and a hope that the substitution of a more economical plan may better reconcile the Assembly to a prosecution of the undertaking.

Since I have been at home I have had leisure to review the literary cargo, for which I am so much indebted to your friendship. The collection is perfectly to my mind. I must trouble you only to get two little mistakes rectified. The number of vols. in the Encyclopedia corresponds with your list, but a duplicate has been packed up of Tom. 1, première partie of His-



toire Naturelle, Quadrupèdes, première livraison, and there is left out the second part of the same Tome, which, as appears by the Avis to the 1st Livraison, makes the 1st Tome of Histoire des oiseaux as well as by the Histoire des oiseaux sent, which begins with Tom. II repartie, and with the letter F from the Avis to the sixth Livraison. I infer that the vol. omitted made part of the 5th livraison. The duplicate vol. seems to have been a good deal handled, and possibly belongs to your own sett. Shall I keep it in my hands, or send it back? The other mistake is an omission of the 4th vol. of D'Albon sur l'intérêt de plusieurs nations, &c. The binding of the three vol<sup>s</sup> which are come is distinguished from that of most of the other books by the circumstance of the figure on the back numbering the vol<sup>s</sup> being on a black instead of a red ground. The author's name above is on a red ground. I mention these circumstances that the binder may supply the omitted volume in proper uniform.

I annex a state of our account balanced. I had an opportunity a few days after your letters were received of remitting the balance to the hands of Mrs. Carr, with a request that it might be made use of as you directed, to prevent a loss of time to her sons from occasional disappointments in the stated funds. I have not yet heard from the Mr. Fitzhughs on the subject of your advance to them. The advance to Le Maire had been made a considerable time before I received your countermanding instructions. I have no copying press, but must postpone that conveniency to other wants which will absorb my little resources. I am fully apprized of the value of this machine, and mean to get one when I can better afford it and may have more use for it. I am led to think it would be a very economical acquisition to all our public offices, which are obliged to furnish copies of papers belonging to them.

A quorum of the deputies appointed by the Assembly for a commercial Convention had a meeting at Richmond shortly after I left it, and the Attorney tells me it has been agreed to propose Annapolis for the place, and the first monday in September for the time, of holding the Convention. It was thought

prudent to avoid the neighborhood of Congress and the large Commercial towns, in order to disarm the adversaries to the object of insinuations of influence from either of these quarters. I have not heard what opinion is entertained of this project at New York, nor what reception it has found in any of the States. If it should come to nothing, it will, I fear, confirm Great Britain and all the world in the belief that we are not to be respected nor apprehended as a nation in matters of commerce. The States are every day giving proofs that separate regulations are more likely to set them by the ears than to attain the common object. When Massachusetts set on foot a retaliation of the policy of Great Britain, Connecticut declared her ports free. New Jersey served New York in the same way. And Delaware, I am told, has lately followed the example, in opposition to the commercial plans of Pennsylvania.

A miscarriage of this attempt to unite the States in some effectual plan will have another effect of a serious nature. It will dissipate every prospect of drawing a steady revenue from our imposts, either directly into the federal treasury, or indirectly through the treasuries of the Commercial States, and, of consequence, the former must depend for supplies solely on annual requisitions, and the latter on direct taxes drawn from the property of the Country. That these dependencies are in an alarming degree fallacious, is put by experience out of all question. The payments from the States under the calls of Congress have in no year borne any proportion to the public wants. During the last year, that is, from November, 1784, to November, 1785, the aggregate payments, as stated to the late Assembly, fell short of 400,000 dollars, a sum neither equal to the interest due on the foreign debts, nor even to the current expences of the federal Government. The greatest part of this sum, too, went from Virginia, which will not supply a single shilling the present year.

Another unhappy effect of a continuance of the present anarchy of our commerce will be a continuance of the unfavorable balance on it, which, by draining us of our metals, furnishes pretexts for the pernicious substitution of paper money, for in-

dulgences to debtors, for postponements of taxes. In fact, most of our political evils may be traced up to our commercial ones, as most of our moral may to our political. The lessons which the mercantile interest of Europe have received from late experience will probably check their propensity to credit us beyond our resources, and so far the evil of an unfavorable balance will correct itself. But the Merchants of Great Britain, if no others, will continue to credit us, at least as far as our remittances can be strained, and that is far enough to perpetuate our difficulties, unless the luxurious propensity of our own people can be otherwise checked.

This view of our situation presents the proposed Convention as a remedial experiment which ought to command every assent; but if it be a just view, it is one which assuredly will not be taken by all even of those whose intentions are good. I consider the event, therefore, as extremely uncertain, or rather, considering that the States must first agree to the proposition for sending deputies, that these must agree in a plan to be sent back to the States, and that these again must agree unanimously in a ratification of it, I almost despair of success. It is necessary, however, that something should be tried, and if this be not the best possible expedient, it is the best that could possibly be carried through the Legislature here. And if the present crisis cannot effect unanimity, from what future concurrence of circumstances is it to be expected? Two considerations particularly remonstrate against delay. One is the danger of having the same game played on our Confederacy by which Philip managed that of the Grecians. I saw enough during the late Assembly of the influence of the desperate circumstances of individuals on their public conduct, to admonish me of the possibility of finding in the council of some one of the States fit instruments of foreign machinations. The other consideration is the probability of an early increase of the confederated States, which more than proportionally impede measures which require unanimity; as the new members may bring sentiments and interests less congenial with those of the Atlantic States than those of the latter are one with another.

The price of our staple is down at 22s. at Richmond. One argument for putting off the taxes was, that it would relieve the planters from the necessity of selling, and would enable them to make a better bargain with the purchasers. The price has, notwithstanding, been falling ever since. How far the event may have proceeded from a change in the Market of Europe, I know not. That it has in part proceeded from the practice of remitting and postponing the taxes, may, I think, be fairly deduced. The scarcity of money must, of necessity, sink the price of every article, and the relaxation in collecting the taxes increases this scarcity by diverting the money from the public Treasury to the shops of Merchandize. In the former case it would return into circulation. In the latter, it goes out of the Country to balance the increased consumption. A vigorous and steady collection of taxes would make the money necessary here, and would therefore be a mean of keeping it here. In our situation it would have the salutary operation of a sumptuary law. The price of Indian Corn in this part of the Country, which produced the best crops, is not higher than two dollars per barrel. It would have been much higher but for the peculiar mildness of the winter. December and January scarcely reminded us that it was winter. February, though temperate, was less unseasonable. Our deepest snow (about seven inches) was in the present month. I observe the tops of the blue ridge still marked with its remains. My last was dated January 22d, and contained a narrative of the proceedings of the Assembly.

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TO JAMES MONROE.

ORANGE, 19th March, 1786.

DEAR SIR,— \* \* \* \* \*

"The Question of policy," you say, "is whether it will be better to correct the vices of the Confederation by recommendation gradually as it moves along, or by a Convention. If the latter should be determined on, the powers of the Virginia Commis-

sioners are inadequate." If all on whom the correction of these vices depends were well informed and well disposed, the mode would be of little moment. But as we have both ignorance and iniquity to combat, we must defeat the designs of the latter by humouring the prejudices of the former. The efforts for bringing about a correction through the medium of Congress have miscarried. Let a Convention, then, be tried. If it succeeds in the first instance, it can be repeated as other defects force themselves on the public attention, and as the public mind becomes prepared for further remedies.

The Assembly here would refer nothing to Congress. They would have revolted equally against a plenipotentiary commission to their deputies for the Convention. The option, therefore, lay between doing what was done and doing nothing. Whether a right choice was made time only can prove. I am not, in general, an advocate for temporizing or partial remedies. But a rigor in this respect, if pushed too far, may hazard everything. If the present paroxysm of our affairs be totally neglected our case may become desperate. If anything comes of the Convention, it will probably be of a permanent, not a temporary nature, which I think will be a great point. The mind feels a peculiar complacency in seeing a good thing done when it is not subject to the trouble and uncertainty of doing it over again. The commission is, to be sure, not filled to every man's mind. The History of it may be a subject of some future tête à tête.

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TO JAMES MONROE.

ORANGE, April 9th, 1786.

DEAR SIR,—The step taken by New Jersey was certainly a rash one, and will furnish fresh pretexts to unwilling States for withholding their contributions. In one point of view, however, it furnishes a salutary lesson. Is it possible, with such an example before our eyes of impotency in the federal system, to remain sceptical with regard to the necessity of infusing more

energy into it? A Government cannot long stand which is obliged, in the ordinary course of its administration, to court a compliance with its constitutional acts, from a member not of the most powerful order, situated within the immediate verge of authority, and apprised of every circumstance which should remonstrate against disobedience.

The question whether it be possible and worth while to preserve the Union of the States must be speedily decided some way or other. Those who are indifferent to its preservation would do well to look forward to the consequences of its extinction. The prospect to my eye is a gloomy one indeed.

I am glad to hear that the opposition to the impost is likely to be overcome. It is an encouragement to persevere in good measures. I am afraid, at the same time, that, like other auxiliary resources, it will be overrated by the States, and slacken the regular efforts of taxation. It is also materially short of the power which Congress ought to have with regard to trade. It leaves the door unshut against a commercial warfare among the States, our trade exposed to foreign machinations, and the distresses of an unfavorable balance very little checked. The experience of European Merchants who have speculated in our trade will probably check, in a great measure, our opportunities of consuming beyond our resources; but they will continue to credit us as far as our coin, in addition to our productions, will extend, and our experience here teaches us that our people will extend their consumption as far as credit can be obtained.

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TO THOMAS JEFFERSON.

ORANGE, May 12th, 1786.

DEAR SIR,—My last was of March 18, since which I have been favored with yours of the 8 and 9th of February. Bancroft's application in favour of Paradise, inclosed in the latter, shall be attended to as far as the case will admit, though I see not how any relief can be obtained. If Mr. Paradise stands on the list of foreign creditors, his agent here may probably con-

vert his securities into money without any very great loss, as they rest on good funds, and the principal is in a course of payment. If he stands on the domestic list, as I presume he does, the interest only is provided for, and, since the postponement of the taxes, even that cannot be negotiated without a discount of 10 per cent., at least. The principal cannot be turned into cash without sinking three-fourths of its amount.

Your notes having got into print in France, will inevitably be translated back and published in that form, not only in England but in America, unless you give out the original. I think, therefore, you owe it not only to yourself, but to the place you occupy and the subjects you have handled, to take this precaution. To say nothing of the injury which will certainly result to the diction from a translation first into French and then back into English, the ideas themselves may possibly be so perverted as to lose their propriety.

The books which you have been so good as to forward to me are so well assorted to my wishes that no suggestions are necessary as to your future purchases. A copy of the old edition of the Encyclopedia is desirable, for the reasons you mention; but as I should gratify my desire in this particular at the expence of something else which I can less dispense with, I must content myself with the new Edition for the present. The watch I bought in Philadelphia, though a pretty good one, is probably so far inferior to those of which you have a sample that I cannot refuse your kind offer to procure me one of the same sort; and I am fancying to myself so many little gratifications from the pedometer that I cannot forego that addition.

The inscription for the Statue is liable to Houdon's criticism, and is in every respect inferior to the substitute which you have copied into your letter. I am apprehensive, notwithstanding, that no change can be effected. The Assembly will want some proper ground for resuming the matter. The devices for the other side of the pedestal are well chosen, and might, I should suppose, be applied without scruple as decorations of the artist. I counted, myself, on the addition of proper ornaments,

and am persuaded that such a liberty could give offence nowhere.

The execution of your hints with regard to the Marquis and Rochambeau would be no less pleasing to me than to you. I think with you, also, that the setting up the busts of our own worthies would not be doing more honour to them than to ourselves. I foresee, however, the difficulty of overcoming the popular objection against every measure which involves expence, particularly where the importance of the measure will be felt by a few only; and an unsuccessful attempt would be worse than no attempt. I have heard nothing as to the Capitol. I mentioned to you in my last that I had written to the Attorney on the subject. I shall have an opportunity shortly of touching on it again to him.

A great many changes have taken place in the late elections. The principal acquisitions are Col. G. Mason, who, I am told, was pressed into the service at the instigation of General Washington, General Nelson, Mann Page. In Albemarle, both the old ones declined the task. Their successors are George and John Nicholas. Col. Carter was again an unsuccessful candidate. I have not heard how Mr. Harrison has shaped his course. It was expected that he would stand in a very awkward relation both to Charles City and to Surrey, and would probably succeed in neither. Monroe lost his election in King George by 6 votes. Mercer did his by the same number in Stafford. Neither of them was present, or they would, no doubt, have both been elected. Col. Bland is also to be among us. Among the many good things which may be expected from Col. Mason, we may reckon, perhaps, an effort to review our Constitution. The loss of the port bill will certainly be one condition on which we are to receive his valuable assistance. I am not without fears, also, concerning his federal ideas. The last time I saw him he seemed to have come about a good deal towards the policy of giving Congress the management of trade. But he has been led so far out of the right way that a thorough return can scarcely be hoped for. On all the other great points.



the Revised Code, the Assize bill, taxation, paper money, &c., his abilities will be inestimable.

Most if not all the States, except Maryland, have appointed deputies for the proposed Convention at Annapolis. The refusal of Maryland to appoint proceeded, as I am informed by Mr. Daniel Carroll, from a mistaken notion that the measure would derogate from the authority of Congress, and interfere with the Revenue system of April, 1783, which they have lately recommended anew to the States. There is certainly no such interference, and instead of lessening the authority of Congress, the object of the Convention is to extend it over commerce. I have no doubt that on a reconsideration of the matter it will be viewed in a different light.

The internal situation of this State is growing worse and worse. Our specie has vanished. The people are again plunged in debt to the Merchants, and these circumstances, added to the fall of Tobacco in Europe and a probable combination among its chief purchasers here, have reduced that article to 20s. The price of Corn is, in many parts of the Country, at 20s. and upwards per barrel. In this part it is not more than 15s. Our spring has been a cool and, latterly, a dry one; of course it is a backward one. The first day of April was the most remarkable ever experienced in this climate. It snowed and hailed the whole day in a storm from N. E., and the Thermometer stood at 4 o'clock P. M. at 26°. If the snow had fallen in the usual way it would have been 8 or 10 inches deep, at least; but consisting of small hard globules, mixed with small hail, and lying on the ground so compact and firm as to bear a man, it was less than half of that depth.

We hear from Kentucky that the inhabitants are still at variance with their savage neighbours. In a late skirmish several were lost on both sides. On that of the whites Col. W. Christian is mentioned. It is said the scheme of independence is growing unpopular since the act of our Assembly has brought the question fully before them. Your nephew, Dabney Carr, has been some time at the Academy in Prince Edward. The President, Mr. Smith, speaks favorably of him.

With the sincerest affection, I remain, dear sir, your friend and servant.

P. S. I have taken measures for procuring the Peccan nuts, and the seed of the sugar Tree. Are there no other things here which would be acceptable on a like account? You will withhold from me a real pleasure if you do not favor me with your commands freely. Perhaps some of our animal curiosities would enable you to gratify particular characters of merit. I can, without difficulty, get the skins of all our common and of some of our rarer quadrupeds, and can have them stuffed, if desired. It is possible, also, that I may be able to send some of them alive. I lately had on hand a female opossum, with seven young ones, which I intended to have reared, for the purpose partly of experiments myself, and partly of being able to forward them to you in case of an opportunity, and your desiring it. Unfortunately, they have all died. But I find they can be got at any time, almost, in the spring of the year, and if the season be too far advanced now, they may certainly be had earlier in the next spring.

I observe that in your notes you number the fallow and Roe-deer among the native quadrupeds of America. As Buffon had admitted the fact, it was, whether true or erroneous, a good argument, no doubt, against him. But I am persuaded they are not natives of the new continent. Buffon mentions the chevruël, in particular, as abounding in Louisiana. I have enquired of several credible persons who have traversed the western woods extensively, and quite down to New Orleans, all of whom affirm that no other than our common deer are any where seen. Nor can I find any written evidence to the contrary that deserves notice. You have, I believe, justly considered our Monax as the Marmotte of Europe. I have lately had an opportunity of examining a female one with some attention. Its weight, after it had lost a good deal of blood, was  $5\frac{1}{2}$  lbs. Its dimensions, shape, teeth, and structure within, as far as I could judge, corresponded in substance with the description given by

D'Aubenton. In sundry minute circumstances a precise correspondence was also observable. The principal variations were: 1<sup>st</sup>, in the face, which was shorter in the Monax than in the proportions of the Marmotte, and was less arched about the root of the nose. 2<sup>nd</sup>, in the feet, each of the forefeet having a fifth nail, about  $\frac{1}{3}$  of an inch long, growing out of the inward side of the heel, without any visible toe. From this particular it would seem to be the Marmotte of Poland, called the Bobac, rather than the Alpine Marmotte. 3<sup>rd</sup>, in the teats, which were 8 only. The marmotte in Buffon had 10. 4<sup>th</sup>, in several circumstances of its robe, particularly of that of the belly, which consisted of a short, coarse, thin hair, whereas this part of Buffon's marmotte was covered with a thicker fur than the back, &c.

A very material circumstance in the comparison remains to be ascertained. The European Marmotte is in the class of those which are dormant during the winter. No person here of whom I have enquired can decide whether this be a quality of the Monax. I infer that it is of the dormant class, not only from its similitude to the Marmotte in other respects, but from the sensible coldness of the Monax I examined, compared with the human body, although the vital heat of quadrupeds is said, in general, to be greater than that of man. This inferiority of heat being a characteristic of animals which become torpid from cold, I should consider it as deciding the quality of the Monax in this respect, were it not that the subject of my examination, though it remained alive several days, was so crippled and apparently dying the whole time, that its actual heat could not fairly be taken for the degree of its natural heat. If it had recovered, I intended to have made a trial with the Thermometer. I now propose to have, if I can, one of their habitations discovered during the summer, and to open it on some cold day next winter. This will fix the matter. There is another circumstance which belongs to a full comparison of the two animals. The Marmotte of Europe is said to be an inhabitant of the upper region of mountains only. Whether our Monax be confined to mountainous situations or not, I have not yet learnt. If it be not found as a permanent inhabitant of the level coun-

try, it certainly descends occasionally into the plains which are in the neighborhood of mountains.

I also compared, a few days ago, one of our moles with the male one described in Buffon. It weighed 2 ounces 11 pen<sup>ts</sup>. Its length, the end of its snout to the root of the tail, was 5 inches 3 lines, English measure. That described in Buffon was not weighed, I believe. Its length was 5 inches, French measure. The external and internal correspondence seemed to be too exact for distinct species. There was a difference, nevertheless, in two circumstances, one of which is not unworthy of notice, and the other of material consequence in the comparison. The first difference was in the tail, that of the mole here being 10½ English lines only in the length, and naked, whereas that of Buffon's mole was 14 French lines in length, and covered with hair. If the hair was included in the latter measure, the difference *in the length* ought scarcely to be noticed. The second difference lay in the teeth. The mole in Buffon had 44. That which I examined had but 33; one of those on the left side of the upper jaw, and next to the principal cutters, was so small as to be scarcely visible to the natural eye, and had no corresponding tooth on the opposite side. Supposing this defect of a corresponding tooth to be accidental, a difference of ten teeth still remains.

If these circumstances should not be thought to invalidate the identity of species, the mole will stand as an exception to the Theory which supposes no animal to be common to the two continents which cannot bear the cold of the region where they join, since, according to Buffon, this species of mole is not found "dans les climats froids ou la terre est glacé pendant la plus grande partie de l'année," and it cannot be suspected of such a journey during a short summer as would head the sea which separates the two continents. I suspect that several of our quadrupeds which are not peculiar to the new continent will be found to be exceptions to this Theory, if the mole should not. The Marmotte itself is not an animal taken notice of very far to the north, and as it moves slowly, and is deprived of its locomotive powers altogether by cold, cannot be supposed to

have travelled the road which leads from the old to the New World. It is, perhaps, questionable whether any of the dormant animals, if any such be really common to Europe and America, can have emigrated from one to the other.

I have thought that the cuts of the Quadrupeds in Buffon, if arranged in frames, would make both an agreeable and instructive piece of wall furniture. What would be the cost of them in such a form? I suppose they are not to be had coloured to the life, and would, besides, be too costly. What is the price of Buffon's birds, colored?

Your letter of 28 October has never come to hand.

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TO JAMES MONROE.

ORANGE, May 13th, 1786.

DEAR SIR,— \* \* \* \* \*

I think, with you, that it would have an odd appearance for two Conventions to be sitting at the same time with powers in part concurrent. The reasons you give seem also to be valid against augmenting the powers of that which is to meet at Annapolis. I am not surprized, therefore, at the embarrassment of Congress in the present conjuncture. Will it not be best, on the whole, to suspend measures for a more thorough cure of our federal system till the partial experiment shall have been made? If the spirit of the Conventioners should be friendly to the Union, and their proceedings well conducted, their return into the councils of their respective States will greatly facilitate any subsequent measures which may be set on foot by Congress, or by any of the States.

Great changes have taken place in the late elections. I regret much that we are not to have your aid. It will be greatly needed, I am sure. Mercer, it seems, lost his election by the same number of votes as left you out. He was absent at the time, or he would no doubt have been elected. Have you seen his pamphlet? You will have heard of the election of Col. Mason, General Nelson, Mann Page, G. Nicholas, Jn<sup>r</sup> Nicholas,

and Col. Bland. Col. Mason will be an inestimable acquisition on most of the great points. On the port bill he is to be equally dreaded. In fact, I consider that measure as lost almost at any rate. There was a majority against it last session if it had been skilfully made use of. To force the trade to Norfolk and Alexandria, without preparations for it at those places, will be considered as injurious. And so little ground is there for confidence in the stability of the Legislature, that no preparations will ever be made in consequence of a preceding law. The transition must of necessity, therefore, be at any time abrupt and inconvenient. I am somewhat apprehensive, likewise, that Col. Mason may not be fully cured of his anti-federal prejudices.

We hear from Kentucky that the savages continue to disquiet them. Col. W. Christian, it is said, lately lost his life in pursuing a few who had made an inroad on the settlement. We are told, too, that the proposed separation is growing very unpopular among them.

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TO JAMES MONROE.

ORANGE, June 11th, 1786.

DEAR SIR,—At the date of my last, I expected I should by this time have been on the journey which promises the pleasure of taking you by the hand in New York. Several circumstances have produced a delay in my setting out which I did not calculate upon, and which are like to continue it for eight or ten days to come. My journey will also be rendered tedious by the route which I shall pursue. I have some business which makes it expedient for me to take Winchester and Lancaster in my way, and some duties of consanguinity which will detain me some days in the neighborhood of the former. If I have an opportunity I will write you again before I set out; and if I should not, I will do it immediately on my reaching Philadelphia. You will not write after the receipt of this.

I imagine you get from Mr. Jones better information as to

the back country, as well as concerning our more immediate affairs, than I can give you. The death of Christian seems to be confirmed. The disinclination of Kentucky to a separation is also repeated with strong circumstances of probability. Our staple continues low. The people have got in debt to the merchants, who set their own price, of course. There are, perhaps, other causes also, besides the fall of the market in Europe, which, of itself, does not explain the matter. One of them may be the scarcity of money, which is really great.

The advocates for paper money are making the most of this handle. I begin to fear exceedingly that no efforts will be sufficient to parry this evil. The election of Col. Mason is the main counterpoise for my hopes against the popular cry. Mann Page and General Nelson will also, I flatter myself, be valuable fellow-labourers. Our situation is truly embarrassing. It cannot, perhaps, be affirmed that there is gold and silver enough in the Country to pay the next tax. What, then, is to be done? Is there any other alternative but to emit paper, or to postpone the collection? These are the questions which will be rung in our ears by the very men whose past measures have plunged us into our difficulties. But I will not plague you with our difficulties here. You have enough of them, I am sure, where you are. Present my best respects to Col. Grayson and your other colleagues, and believe me to be, your's affectionately.

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TO JAMES MONROE.

ORANGE, June 21st, 1786.

DEAR SIR,—Your favor of the 31st ult. did not come to hand till two days ago. As I expect to see you in a short time, I will suspend the full communication of my ideas on the subject of it till I have that pleasure.

I cannot, however, forbear in the mean time expressing my amazement that a thought should be entertained of surrendering the Mississippi, and of guarantying the possessions of Spain

in America. In the first place, has not Virginia, have not Congress themselves, and the Ministers of Congress by their orders, asserted the right of those who live on the waters of the Mississippi to use it as the high road given by nature to the sea? This being the case, have Congress any more authority to say that the Western citizens of Virginia shall not pass through the capes of the Mississippi than to say that her Eastern citizens shall not pass through the capes Henry and Charles? It should be remembered that the United States are not now extricating themselves from war—a crisis which often knows no law but that of necessity. The measure in question would be a voluntary barter, in time of profound peace, of the rights of one part of the empire to the interests of another part. What would Massachusetts say to a proposition for ceding to Britain her right of fishery as the price of some stipulations in favor of Tobacco?

Again: can there be a more short-sighted or dishonorable policy than to concur with Spain in frustrating the benevolent views of nature, to sell the affections of our ultra-montane brethren, to depreciate the richest fund we possess, to distrust an ally we know to be able to befriend us, and to have an interest in doing it against the only nation whose enmity we can dread, and at the same time to court by the most precious sacrifices the alliance of a nation whose impotency is notorious, who has given no proof of regard for us, and the genius of whose Government, religion, and manners, unfits them of all the nations in christendom for a coalition with this country? Can anything, too, as you well observe, be more unequal than a stipulation which is to open all our ports to her, and some only, and those the least valuable, of hers to us; and which places the commercial freedom of our ports against the fettered regulations of those in Spain? I always thought the stipulation with France and Holland of the privileges of the most favoured nation unequal, and only to be justified by the influence which the treaties could not fail to have on the event of the war. A stipulation putting Spanish subjects on the same footing with our own citizens is carrying the evil still farther, without the



same pretext for it, and is the more to be dreaded, as by making her the most favored nation it would let in the other nation with whom we are now connected to the same privileges, whenever they may find it their interest to make the same compensation for them, whilst we have not a reciprocal right to force them into such an arrangement in case our interest should dictate it.

A guaranty is, if possible, still more objectionable. If it be insidious, we plunge ourselves into infamy; if sincere, into obligations the extent of which cannot easily be determined. In either case we get farther into the labyrinth of European politics, from which we ought religiously to keep ourselves as free as possible. And what is to be gained by such a rash step? Will any man in his senses pretend that our territory needs such a safeguard, or that, if it were in danger, it is the arm of Spain that is to save it? Viewing the matter in this light, I cannot but flatter myself that if the attempt you apprehend should be made, it will be rejected with becoming indignation.

I am less sanguine as to the issue of the other matter contained in your letter. I know the mutual prejudices which impede every overture towards a just and final settlement of claims and accounts. I persist in the opinion that a proper and speedy adjustment is unattainable from any assembly constituted as Congress is, and acting under the impulse which they must. I need not repeat to you the plan which has always appeared to me most likely to answer the purpose. In the mean time it is mortifying to see the other States, or rather their Representatives, pursuing a course which will make the case more and more difficult, and putting arms into the hands of the enemies to every amendment of our federal system. God knows that they are formidable enough in this State without such an advantage. With it, their triumph will be certain and easy. But I have been led much farther already than I proposed, and will only that

I am with the sincerest affection, your friend and serv.

TO THOMAS JEFFERSON.

PHILADELPHIA, Aug. 12th, 1786.

DEAR SIR,—My last, of the 19th of June, intimated that my next would be from New York or this place. I expected it would rather have been from the former, which I left a few days ago; but my time was so taken up there with my friends and some business, that I thought it best to postpone it till my return here. My ride through Virginia, Maryland, and Pennsylvania, was in the midst of harvest. I found the crops of wheat in the upper parts of the two former considerably injured by the wet weather, which my last described as so destructive in the lower parts of those States. The computed loss where I passed was about one-third. The loss in the Rye was much greater. It was admitted, however, that the crops of both would have been unusually large but for this casualty. Throughout Pennsylvania the wheat was unhurt, and the Rye very little affected.

As I came by the way of Winchester and crossed the Potowmac at Harper's Ferry, I had an opportunity of viewing the magnificent scene which nature here presents. I viewed it, however, under great disadvantages. The air was so thick that distant objects were not visible at all, and near ones not distinctly so. We ascended the mountain, also, at a wrong place, fatigued ourselves much in traversing it before we gained the right position, were threatened during the whole time with a thunder storm, and finally overtaken by it. Had the weather been favorable the prospect would have appeared to peculiar advantage, being enriched with the harvest in its full maturity, which filled every vale as far as the eye could reach.

I had the additional pleasure here of seeing the progress of the works on the Potowmac. About 50 hands were employed at these falls, or rather rapids, who seemed to have overcome the greatest difficulties. Their plan is to slope the fall by opening the bed of the river, in such a manner as to render a lock unnecessary, and, by means of ropes fastened to the rocks, to pull up and ease down the boats where the current is most

rapid. At the principal falls 150 hands, I was told, were at work, and that the length of the canal will be reduced to less than a mile, and carried through a vale which does not require it to be deep. Locks will here be unavoidable. The undertakers are very sanguine. Some of them who are most so talk of having the entire work finished in three years. I can give no particular account of the progress on James River, but am told it is very flattering. I am still less informed of what is doing with North Carolina towards a canal between her and our waters. The undertaking on the Susquehannah is said to be in such forwardness as to leave no doubt of its success.

A negociation is set on foot between Pennsylvania, Maryland, and Delaware, for a canal from the head of Chesapeak to the Delaware. Maryland, as I understand, heretofore opposed the undertaking, and Pennsylvania means now to make her consent to it a condition on which the opening of the Susquehannah within the limits of Pennsylvania will depend. Unless this is permitted, the opening undertaken within the limits of Maryland will be of little account. It is lucky that both parties are so dependent on each other as to be thus mutually forced into measures of general utility. I am told that Pennsylvania has complied with the joint request of Virginia and Maryland for a road between the head of Potowmac and the waters of the Ohio, and the secure and free use of the latter through her jurisdiction.

These fruits of the Revolution do great honour to it. I wish all our proceedings merited the same character. Unhappily, there are but too many belonging to the opposite side of the account. At the head of these is to be put the general rage for paper money. Pennsylvania and North Carolina took the lead in this folly. In the former the sum emitted was not considerable, the funds for sinking it were good, and it was not made a legal tender. It issued into circulation partly by way of loan to individuals on landed security, partly by way of payment to the public creditors. Its present depreciation is about 10 or 12 per cent. In North Carolina the sums issued at different times have been of greater amount, and it has constantly been a ten-

der. It issued partly in payments to military creditors, and, latterly, in purchases of Tobacco on public account. The Agent, I am informed, was authorised to give nearly the double of the current price; and as the paper was a tender, debtors ran to him with their Tobacco, and the creditors paid the expence of the farce. The depreciation is said to be 25 or 30 per cent. in that State. South Carolina was the next in order. Her emission was in the way of loans to individuals, and is not a legal tender. But land is there made a tender in case of suits, which shuts the Courts of Justice, and is, perhaps, as great an evil. The friends of the emission say that it has not yet depreciated, but they admit that the price of commodities has risen, which is evidently the form in which depreciation will first shew itself.

New Jersey has just issued £30,000 (dollar at 7*s.* 6*d.*) in loans to her citizens. It is a legal tender. An addition of £100,000 is shortly to follow on the same principles. The terror of popular associations stifles, as yet, an overt discrimination between it and specie; but as this does not operate in Philadelphia and New York, where all the trade of New Jersey is carried on, its depreciation has already commenced in those places, and must soon communicate itself to New Jersey. New York is striking £200,000 (dollar at 8*s.*) on the plan of loans to her citizens. It is made a legal tender in case of suits only. As it is but just issuing from the press, its depreciation exists only in the foresight of those who reason without prejudice on the subject. In Rhode Island, £100,000 (dollar at 6*s.*) has lately been issued in loans to individuals. It is not only made a tender, but severe penalties annexed to the least attempt, direct or indirect, to give a preference to specie. Precautions dictated by distrust in the rulers soon produced it in the people. Supplies were withheld from the Market, the Shops were shut, popular meetings ensued, and the State remains in a sort of convulsion.

The Legislature of Massachusetts at their last session rejected a paper emission by a large majority. Connecticut and New Hampshire, also, have as yet forborne, but symptoms of danger,

it is said, begin to appear in the latter. The Senate of Maryland has hitherto been a bar to paper in that State. The clamor for it is now universal, and as the periodical election of the Senate happens at this crisis, and the whole body is, unluckily, by their Constitution, to be chosen at once, it is probable that a paper emission will be the result. If, in spite of the zeal exerted against the old Senate, a majority of them should be re-elected, it will require all their firmness to withstand the popular torrent. Of the affairs of Georgia I know as little as of those of Kamskatska.

Whether Virginia is to remain exempt from the epidemic malady will depend on the ensuing Assembly. My hopes rest chiefly on the exertions of Col. Mason, and the failure of the experiments elsewhere. That these must fail is morally certain; for besides the proofs of it already visible in some States, and the intrinsic defect of the paper in all, this fictitious money will rather feed than cure the spirit of extravagance which sends away the coin to pay the unfavorable balance, and will therefore soon be carried to market to buy up coin for that purpose. From that moment depreciation is inevitable. The value of money consists in the uses it will serve. Specie will serve all the uses of paper; paper will not serve one of the essential uses of specie. The paper, therefore, will be less valuable than specie. Among the numerous ills with which this practice is pregnant, one, I find, is, that it is producing the same warfare and retaliation among the States as were produced by the State regulations of commerce. Massachusetts and Connecticut have passed laws enabling their citizens who are debtors to citizens of States having paper money, to pay their debts in the same manner as their citizens who are creditors to citizens of the latter States are liable to be paid their debts.

The States which have appointed deputies to Annapolis are New Hampshire, Massachusetts, Rhode Island, New York, New Jersey, Pennsylvania, Delaware, and Virginia. Connecticut declined, not from a dislike to the object, but to the idea of a Convention, which it seems has been rendered obnoxious by some internal Conventions, which embarrassed the Legislative

authority. Maryland, or rather her Senate, negated an appointment, because they supposed the measure might interfere with the plans or prerogatives of Congress. North Carolina has had no Legislative meeting since the proposition was communicated. South Carolina supposed she had sufficiently signified her concurrence in a general regulation of trade by vesting the power in Congress for 15 years. Georgia ———. Many Gentlemen, both within and without Congress, wish to make this meeting subservient to a plenipotentiary Convention for amending the Confederation. Tho' my wishes are in favor of such an event, yet I despair so much of its accomplishment at the present crisis that I do not extend my views beyond a commercial Reform. To speak the truth, I almost despair even of this. You will find the cause in a measure now before Congress, of which you will receive the detail from Col. Monroe. I content myself with hinting that it is a proposed treaty with Spain, one article of which shuts up the Mississippi for twenty-five or thirty years. Passing by the other Southern States, figure to yourself the effect of such a stipulation on the Assembly of Virginia, already jealous of Northern politics, and which will be composed of about thirty members from the Western waters; of a majority of others attached to the Western Country from interests of their own, of their friend, or their constituent; and of many others who, though indifferent to Mississippi, will zealously play off the disgust of their friends against federal measures. Figure to yourself its effect on the people at large on the western waters, who are impatiently waiting for a favorable result to the negociation of Gardoqui, and who will consider themselves as sold by their Atlantic brethren. Will it be an unnatural consequence if they consider themselves absolved from every federal tie, and court some protection for their betrayed rights? This protection will appear more attainable from the maritime power of Britain than from any other quarter; and Britain will be more ready than any other nation to seize an opportunity of embroiling our affairs.

What may be the motive with Spain to satisfy herself with a temporary occlusion of the Mississippi, at the same time that

she holds forth our claim to it as absolutely inadmissible, is matter of conjecture only. The patrons of the measure in Congress contend that the Minister, who at present governs the Spanish councils, means only to disembarass himself at the expence of his successors. I should rather suppose he means to work a total separation of interest and affection between western and eastern settlements, and to foment the jealousy between the Eastern and Southern States. By the former, the population of the Western Country, it may be expected, will be checked, and the Mississippi so far secured; and, by both, the general security of Spanish America be promoted.

As far as I can learn, the assent of nine States in Congress will not at this time be got to the projected treaty; but an unsuccessful attempt by six or seven will favor the views of Spain, and be fatal, I fear, to an augmentation of the federal authority, if not to the little now existing. My personal situation is rendered by this business particularly mortifying. Ever since I have been out of Congress I have been inculcating on our Assembly a confidence in the equal attention of Congress to the rights and interests of every part of the Republic, and on the Western members, in particular, the necessity of making the Union respectable by new powers to Congress, if they wished Congress to negotiate with effect for the Mississippi.

I leave to Col. Monroe the giving you a particular account of the impost. The acts of Pennsylvania, Delaware, and New York, must be revised and amended in material points before it can be put in force, and even then the fetters put on the collection by some other States will make it a very awkward business. Your favor of 25th of April, from London, found me here. My letter from Richmond at the close of the Assembly will have informed you of the situation in which British debts stand in Virginia. Unless Congress say something on the subject, I do not think anything will be done by the next session. The expectations of the British Merchants coincide with the information I had received, as your opinion of the steps proper to be taken by the Assembly do with those for which I have ineffectually contended. The merits of Mr. Paradise will ensure

every attention from me to his claim, as far as general principles will admit.

The catalogues sent by Mr. Skipwith I do not expect to receive till I get back to Virginia. If you meet with "*Græcorum Republicæ ab Ubbone Emmio descriptæ*," *Sugd. Batavorum*, 1632, pray get it for me.

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TO JAMES MONROE.

PHILADELPHIA, August 15th, 1786.

DEAR SIR,— \* \* \* \* \*

I am sorry the development of the interesting subject before Congress\* had so little effect on the members. I did not see General St. Clair, and if I had, my acquaintance is too slender to have warranted my broaching a conversation with him. I have conferred freely with Mr. Wilson. What his ultimate opinion may be on a full view of the measure in its details, I cannot say. I think he is not unaware of strong objections against it, particularly as it tends to defeat the object of the meeting at Annapolis, from which he has great expectations.

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TO JAMES MONROE.

PHILADELPHIA, August 17th, 1786.

DE SIR,—I have your favor of the 14th inst. The expedient† of which you ask my opinion has received, as it deserved, all the

\* Jay's proposition.

† "It has occurred to Grayson and myself to propose to Congress that negotiations be carried on with Spain upon the following principles: 1. That exports be admitted through the Mississippi to some free port, perhaps New Orleans, to pay there a toll to Spain of about 3 per centum ad valorem, and to be carried thence under the regulations of Congress. 2. That imports shall pass into the western Country through the ports of the United States only. 3. That this sacrifice be given up to obtain in other respects a beneficial treaty."—*Extract from Mr. Monroe's letter referred to.*



consideration which the time and other circumstances would allow me to give. I think that, in the present state of things, such an arrangement would be beneficial, and even pleasing to those most concerned in it; and yet I doubt extremely the policy of your proposing it to Congress. The objections which occur to me are: 1. That if the temper and views of Congress be such as you apprehend, it is morally certain they would not enter into the accommodation. Nothing, therefore, would be gained, and you would have to combat under the disadvantage of having forsaken your first ground. 2. If Congress should adopt your expedient as a ground of negociation with Guardoqui, and the views of Spain be such as they must be apprehended to be, it is still more certain that it would be rejected on that side, especially under the flattering hopes which the spirit of concession in Congress must have raised. In this event, the patrons of the measure now before Congress would return to it with greater eagerness and with fresh arguments, drawn from the impossibility of making better terms, and from the relaxation into which their opponents will have been betrayed. It is even possible that a foresight of this event might induce a politic concurrence in the experiment.

Your knowledge of all circumstances will make you a better judge of the solidity or fallacy of these reflections than I can be. I do not extend them because it would be superfluous, as well as because it might lead to details which could not prudently be committed to the mail without the guard of a cypher. Not foreseeing that any confidential communication on *paper* would happen between us during my absence from Virginia, I did not bring mine with me.

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TO JAMES MONROE.

ANNAPOLIS, September 11th, 1786.

DEAR SIR,—I have two letters from you not yet acknowledged, one of the 1st, the other of the 3d instant. Nothing could be more distressing than the issue of the business stated in the

latter. If the affirmative vote of seven States should be pursued, it will add the insult of trick to the injury of the thing itself.

Our prospect here makes no amends for what is done with you. Delaware, New Jersey, and Virginia, alone are on the ground; two Commissioners attend from New York, and one from Pennsylvania. Unless the sudden attendance of a much more respectable number takes place it is proposed to break up the meeting, with a recommendation of another time and place, and an *intimation* of the expediency of extending the plan to other defects of the Confederation. In case of a speedy dispersion, I shall find it requisite to ride back as far as Philadelphia before I proceed to Virginia, from which place, if not from this, I will let you know the upshot here.

I have heard that Col. Grayson was stopped at Trenton, by indisposition, on his way to the Assembly of Pennsylvania. I hope he is well again, and would write to him, but know not whither to address a letter to him.

Adieu. Yrs aff<sup>y</sup>.

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TO JAMES MONROE.

PHILADELPHIA, Oct<sup>r</sup> 5th. 1786.

DEAR SIR,—I received yesterday your favor of the 2nd instant, which makes the third for which my acknowledgments are due. The progression which a certain measure seems to be making is an alarming proof of the predominance of temporary and partial interests over those just and extended maxims of policy which have been so much boasted of among us, and which alone can effectuate the durable prosperity of the Union. Should the measure triumph under the patronage of nine States, or even of the whole thirteen, I shall never be convinced that it is expedient, because I cannot conceive it to be just.

There is no maxim, in my opinion, which is more liable to be misapplied, and which, therefore, more needs elucidation, than

the current one, that the interest of the majority is the political standard of right and wrong. Taking the word "interest" as synonymous with "ultimate happiness," in which sense it is qualified with every necessary moral ingredient, the proposition is no doubt true. But taking it in the popular sense, as referring to immediate augmentation of property and wealth, nothing can be more false. In the latter sense, it would be the interest of the majority in every community to despoil and enslave the minority of individuals; and in a federal community, to make a similar sacrifice of the minority of the component States. In fact, it is only re-establishing, under another name and a more specious form, force as the measure of right; and in this light the Western settlements will infallibly view it.

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TO JAMES MONROE.

RICHMOND, Oct 30th, 1786.

DEAR SIR,—I drop you a few lines rather as a fulfilment of my promise than for the purpose of information, since they go by Mr. Jones, who is much better acquainted with the politics here than myself.

I find, with pleasure, that the navigation of the Mississippi will be defended by the Legislature with as much zeal as could be wished. Indeed, the only danger is, that too much resentment may be indulged by many against the federal Councils. Paper money has not yet been tried even in any indirect mode that could bring forth the mind of the Legislature. Appearances on the subject, however, are rather flattering. Mr. Henry\* has declined a reappointment to the office he holds, and Mr. Randolph is in nomination for his successor, and will pretty certainly be elected. R. H. Lee has been talked of, but is not yet proposed. The appointments to Congress are a subject of conversation, and will be made as soon as a Senate is made.

\* Then Governor of Virginia.

Mr. Jones will be included in the new Delegation. Your presence and communications on the point of the Mississippi are exceedingly wished for, and would, in several respects, be extremely useful. If Mr. Jones does not return in a day or two, come without him, I beseech you. I am consulted frequently on matters concerning which I cannot or ought not to speak, and refer to you as the proper source of information, as far as you may be at liberty. Hasten your trip, I again beseech you. I hope Mrs. Monroe continues well. My sincerest respects wait on her.

In haste, adieu. Yrs.

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TO GENERAL WASHINGTON.

RICHMOND, Nov<sup>r</sup> 1, 1786.

DEAR SIR,—I have been here too short a time, as yet, to have collected fully the politics of the session. In general, appearances are favorable. On the question for a paper emission, the measure was this day rejected in emphatical terms by a majority of 84 vs. 17. The affair of the Mississippi\* is but imperfectly known. I find that its influence on the federal spirit will not be less than was apprehended. The Western members will not be long silent on the subject. I inculcate a hope that the views of Congress may yet be changed, and that it would be rash to suffer the alarm to interfere with the policy of amending the Confederacy. The sense of the House has not yet been tried on the latter point.

The Report from the Deputies to Annapolis lies on the table, and I hope will be called for before the business of the Mississippi begins to ferment. Mr. Henry has signified his wish not to be re-elected, [Governor,] but will not be in the Assembly. The Attorney [Ed. Randolph] and R. H. Lee are in nomination for his successor. The former will probably be appointed;

\* Mr. Jay's project for shutting it up for 25 years.

in which case, the contest for that vacancy will lie between Col. Innes and Mr. Marshall. The nominations for Congress are, as usual, numerous. There being no Senate yet, it is uncertain when any of these appointments will take place.

With sincerest affection, your's.

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TO COL. JAMES MADISON.

RICHMOND, Nov<sup>r</sup> 1st, 1786.

HON<sup>d</sup> SIR,— \* \* \* \*

Paper money was the subject of discussion this day, and was voted, by a majority of 84 against 17, to be "unjust, impolitic, destructive of public and private confidence, and of that virtue which is the basis of Republican Government." Our Revenue matters have also been on the anvil; several changes in our taxes are proposed, and it is not unlikely that some will take place. Duties on imports will be urged, as far as they can be guarded against smuggling by land, as well as by water. Governor Henry declines a reappointment, but does not come into the Assembly. The Attorney or R. H. Lee, probably the former, will supply his place.

We learn that great commotions are prevailing in Massachusetts. An appeal to the Sword is exceedingly dreaded. The discontented, it is said, are as numerous as the friends of Government, and more decided in their measures. Should they get uppermost, it is uncertain what may be the effect. They profess to aim only at a reform of their Constitution, and of certain abuses in the public administration; but an abolition of debts, public and private, and a new division of property, are strongly suspected to be in contemplation.

We also learn that a general combination of the Indians threatens the frontier of the United States. Congress are planning measures for warding off the blow, one of which is an augmentation of the federal troops to upwards of 2,000 men. In addition to these ills, it is pretty certain that a formidable

party in Congress are bent on surrendering the Mississippi to Spain, for the sake of some commercial stipulations. The project has already excited much heat within that Assembly, and, if pursued, will not fail to alienate the Western Country and confirm the animosity and jealousy already subsisting between the Atlantic States. I fear that, although it should be frustrated, the effects already produced will be a great bar to our amendment of the Confederacy, which I consider as essential to its continuance. I have letters from Kentucky which inform me that the expedition against the Indians has prevented the meeting which was to decide the question of their Independence. It is probable the news relative to the surrender of the Mississippi will lessen the disposition to separate.

If the bacon left behind by John should not have been sent, it need not be sent at all. Fresh butter will, from time to time, continue to be very acceptable. My best regards to my mother and the family.

Your affectionate and dutiful son,

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TO GENERAL WASHINGTON.

RICHMOND, Nov<sup>r</sup> 8th. 1786.

DEAR SIR.—I am just honored with your favor of the 5th instant. The intelligence from General Knox\* is gloomy indeed, but it is less so than the colours in which I had it through another channel. If the lessons which it inculcates should not work the proper impressions on the American public, it will be a proof that our case is desperate.

Judging from the present temper and apparent views of our Assembly, I have some ground for leaning to the side of hope. The vote against paper money has been followed by two others of great importance. By one of them, petitions for applying a scale of depreciation to the military certificates was *unanimously*

\* Respecting Shays's Rebellion in Massachusetts.

rejected. By the other, the expediency of complying with the Recommendation from Annapolis in favour of a general revision of the federal system was *unanimously* agreed to. A Bill for the purpose is now depending, and in a form which attests the most federal spirit. As no opposition has been yet made, and it is ready for the third reading, I expect it will soon be before the public. It has been thought advisable to give this subject a very solemn dress, and all the weight that could be derived from a single State. This idea will be pursued in the selection of characters to represent Virginia in the federal Convention. You will infer our earnestness on this point from the liberty which will be used of placing your name at the head of them. How far this liberty may correspond with the ideas by which you ought to be governed will be best decided when it must ultimately be decided. In every event, it will assist powerfully in marking the zeal of our Legislature, and its opinion of the magnitude of the occasion.

Mr. Randolph has been elected successor to Mr. Henry. He had 77 votes, Col. Bland 26, and R. H. Lee 22. The delegation to Congress drops Col. H. Lee, a circumstance which gives much pain to those who attend to the mortification in which it involves a man of sensibility. I am yet to learn the ground of the extensive disapprobation which has shewn itself.

I am, dear sir, most respectfully and affectionately your's.

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[Notes of a speech made by Mr. Madison in the House of Delegates of Virginia, in November, 1786, in opposition to paper-money.]

Unequal to specie. 1. Being redeemable at future day, and not bearing interest. 2. Illustrated by case of bank notes, stock in funds, paper of Spain issued during late war, (See Neckar on finance,) navy bills, tallies. 3. Being of less use than specie, which answers externally as well as internally, must be of less *value*, which depends on the use.

Unjust. 1. To creditors of a legal tender. 2. To debtors, if not legal tender, by increas-

ing difficulty of getting specie. This it does by increasing extravagance and unfavorable balance of trade, and by destroying that confidence between man and man by which resources of one may be commanded by another. 3. Illustrated—1. By raising denomination of coin. 2. Increasing alloy of d<sup>o</sup>; brass made as silver by the Romans, according to Sallust. 3. By changing weights and measures. 4. By case of creditors within who are debtors without the State.

Unconstitutional. 1. Affects rights of property as much as taking away equal value in land; illustrated by case of land paid for down, and to be conveyed in future, and of a law for remitting conveyance, to be satisfied by conveying a part only, or other land of inferior quality. 2. Affects property without trial by jury.

Anti-federal. Right of regulating coin given to Congress for two reasons: 1. For sake of uniformity. 2. To prevent frauds in States towards each other or foreigners. Both these reasons hold equally as to paper money.

Unnecessary. 1. Produce of country will bring in specie, if not laid out in superfluities. 2. Of paper, if necessary, enough already in Tobacco notes and public securities. 3. The true mode of giving value to these, and bringing in specie, is to enforce justice and taxes.

Pernicious. 1. By fostering luxury, extends instead of curing scarcity of specie. 2. By disabling compliance with requisition of Congress. 3. Sowing dissensions between States. 4. Destroying confidence between individuals. 5. Discouraging commerce. 6. Enriching collectors and sharpers. 7. Vitiating morals. 8. Reversing end of government, which is to reward best and punish worst. 9. Conspiring with the examples of other States to disgrace republican governments in the eyes of mankind.

Objection. Paper money good before the war.

Answer. 1. Not true in New England, nor in Virginia, where exchange rose to 60 per cent., nor in Maryland. See Franklin on paper money. 2.



Confidence then; not now. 3. Principles of paper credit not then understood; such would not then, nor now, succeed in Great Britain, &c.

Advantages from rejecting paper:

1. Distinguish the State and its credit.
2. Draw commerce and specie.
3. Set honorable example to other States.

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TO COL. JAMES MADISON.

RICHMOND, Nov. 16th, 1786.

HON<sup>d</sup> SIR,—                      \*       \*       \*       \*       \*       \*       \*

The House of Delegates have done little since my last, and what was then done is still ineffectual for want of a Senate. A proposition for stopping the receipt of indents was made, and met with so little countenance that it was withdrawn. They will continue to be receivable as far as the law now permits, and those who have them not would do well to provide them. A bill is depending which makes Tobacco receivable in lieu of the specie part of the current tax, according to its value at the different Warehouses. Whether it will pass or not is uncertain. I think it most probable that it will pass. Nothing has yet been done as to the certificate tax.

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TO COL. JAMES MADISON.

November 24th, 1786.

HON<sup>d</sup> SIR,—The House of Delegates have just passed a bill making Tobacco receivable in the tax at the market price at the several Warehouses to be fixt by the Executive. There is a proviso that the highest price shall not exceed 28s. An equality of price throughout was contended for, which I disapproved: 1. Because I think it would have been unjust. 2. Because the bill could not have been carried in that form. I was not anxious for its success in any form, but acquiesced in

it as it stands, as the people may consider it in the light of an easement, and as it may prevent some worse project in the Assembly.

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[The following Petition for the repeal of the Law incorporating the Protestant Episcopal Church in Virginia, passed in 1784, is found among the papers of Mr. Madison, and in his handwriting.\*]

*To the Honorable the Speaker and gentlemen the General Assembly of Virginia :*

We, the subscribers, members of the Protestant Episcopal Church, claim the attention of your honorable body to our objections to the law passed at the last session of Assembly for incorporating the Protestant Episcopal Church; and we remonstrate against the said law—

Because the law admits the power of the Legislative Body to interfere in matters of Religion, which we think is not included in their jurisdiction:

Because the law was passed on the petition of some of the clergy of the Protestant Episcopal Church, without any application from the other members of that church on whom the law is to operate; and we conceive it to be highly improper that the Legislature should regard as the sense of the whole church the opinion of a few interested members, who were in most instances originally imposed on the people without their consent, and who were not authorized by even the smallest part of this community to make such a proposition:

Because the law constitutes the clergy members of a convention who are to legislate for the laity, contrary to their fundamental right in choosing their own Legislators:

Because by that law the most obnoxious and unworthy Clergyman cannot be removed from a parish except by the determination of a body, one half of whom the people have no con-

\* The Law referred to was repealed in 1786.

fidence in, and who will always have the same interest with the Minister whose conduct they are to judge of:

Because by that law power is given to the Convention to regulate matters of faith, and the obsequious vestries are to engage to change their opinions as often as the Convention shall alter theirs:

Because a system so absurd and servile will drive the members of the Episcopal church over to other sects, where there will be more consistency and liberty:

We therefore hope that the wisdom and impartiality of the present Assembly will incline them to repeal a law so pregnant with mischief and injustice.

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TO THOMAS JEFFERSON.

RICHMOND, December 4th, 1786.

DEAR SIR,—The recommendation from the meeting at Annapolis, of a plenipotentiary Convention in Philadelphia in May next, has been well received by the Assembly here. Indeed, the evidence of dangerous defects in the confederation has at length proselyted the most obstinate adversaries to a reform. The unanimous sanction given by the Assembly to the inclosed compliance with the Recommendation marks sufficiently the revolution of sentiment which the experience of one year has effected in this country. The deputies are not yet appointed. It is expected that General Washington, the present Governor, E. Randolph, and the late one, Mr. Henry, will be of the number.

The project for bartering the Mississippi to Spain was brought before the Assembly after the preceding measure had been adopted. The report of it having reached the ears of the Western Representatives, as many of them as were on the spot, backed by a number of the late officers, presented a memorial, full of consternation and complaint; in consequence of which, some very pointed Resolutions, by way of instruction to the Delegates in Congress, were *unanimously* entered into by the

House of Delegates. They are now before the Senate, who will no doubt be also unanimous in their concurrence.

The question of paper money was among the first with which the session opened. It was introduced by petitions from two Counties. The discussion was faintly supported by a few obscure patrons of the measure, and, on the vote, it was thrown out by 85 against 17. A petition for paying off the public securities according to a scale of their current prices was *unanimously* rejected.

The consideration of the Revised Code has been resumed, and prosecuted pretty far towards its conclusion. I find, however, that it will be impossible, as well as unsafe, to give an ultimate fiat to the system at this session. The expedient I have in view is to provide for a supplemental revision by a Committee, who shall accommodate the bills skipped over, and the subsequent laws, to such part of the Code as has been adopted, suspending the operation of the latter for one year longer. Such a work is rendered indispensable by the alterations made in some of the bills in their passage, by the change of circumstances, which call for corresponding changes in sundry bills which have been laid by, and by the incoherence between the whole Code and the laws in force of posterior date to the Code. This business has consumed a great deal of the time of two sessions, and has given infinite trouble to some of us. We have never been without opponents, who contest, at least, every innovation inch by inch. The bill proportioning crimes and punishments, on which we were wrecked last year, has, after undergoing a number of alterations, got through a Committee of the whole; but it has not yet been reported to the House, where it will meet with the most vigorous attack. I think the chance is rather against its final passage in that branch of the Assembly; and if it should not miscarry there, it will have another gauntlet to run through the Senate.

The bill on the subject of Education, which could not safely be brought into discussion at all last year, has undergone a pretty indulgent consideration this. In order to obviate the objection from the inability of the Country to bear the expence,

it was proposed that it should be passed into a law, but its operation suspended for three or four years. Even in this form, however, there would be hazard in pushing it to a final question, and I begin to think it will be best to let it lie over for the supplemental Revisors, who may, perhaps, be able to put it into some shape that will lessen the objection of expence. I should have no hesitation at this policy if I saw a chance of getting a Committee equal to the work of completing the revision. Mr. Pendleton is too far gone to take any part in it. Mr. Wythe, I suppose, will not decline any duty which may be imposed on him, but it seems almost cruel to tax his patriotic zeal any farther. Mr. Blair is the only remaining character in which full confidence could be placed.

The delay in the administration of Justice from the accumulation of business in the General Court, and despair of obtaining a reform according to the Assize plan, have led me to give up this plan in favor of district Courts, which differ from the former in being clothed with all the powers of the General Court within their respective districts. The bill on the latter plan will be reported in a few days, and will probably, though not certainly, be adopted.

The fruits of the impolitic measures taken at the last session with regard to taxes are bitterly tasted now. Our Treasury is empty, no supplies have gone to the federal treasury, and our internal embarrassments torment us exceedingly. The present Assembly have good dispositions on the subject, but some time will elapse before any of their arrangements can be productive. In one instance only, the general principles of finance have been departed from. The specie part of the tax under collection is made payable in Tobacco. This indulgence to the people, as it is called and considered, was so warmly wished for out of doors, and so strenuously pressed within, that it could not be rejected without danger of exciting some worse project of a popular cast. As Tobacco alone is made commutable, there is reason to hope the public treasury will suffer little, if at all. It may possibly gain.

The repeal of the port bill has not yet been attempted. Col.

Mason has been waited for as the hero of the attack. As it is become uncertain whether he will be down at all, the question will probably be brought forward in a few days. The repeal, were he present, would be morally certain. Under the disadvantage of his absence, it is more than probable. The question of British debts has also awaited his patronage. I am unable to say what the present temper is on that subject, nothing having passed that could make trial of it. The repeated disappointments I have sustained in efforts in favor of the Treaty make me extremely averse to take the lead in the business again.

The public appointments have been disposed of as follows: The contest for the chair lay between Col. Bland and Mr. Prentiss. The latter prevailed by a majority of near 20 votes. Mr. Harrison, the late Speaker, lost his election in Surrey, which he represented last year; and since has been equally unsuccessful in his pristine County, Charles City, where he made a second experiment. In the choice of a Governor, Mr. E. Randolph had a considerable majority of the whole in the first ballot. His competitors were Col. Bland and R. H. Lee, each of whom had between 20 and 30 votes. The delegation to Congress contained, under the first choice, Grayson, Carrington, R. H. Lee, Mr. Jones, and myself. Col. H. Lee, of the last delegation, was dropped. The causes were different, I believe, and not very accurately known to me. One of them is said to have been his supposed heterodoxy touching the Mississippi. Mr. Jones has since declined his appointment, and Col. Lee has been reinstated by an almost unanimous vote. A vacancy in the Council, produced by the resignation of Mr. Roane, is filled by Mr. Bolling Starke. Cyrus Griffin was a candidate, but was left considerably in the rear. The Attorney Generalship has been conferred on Col. Innes. Mr. Marshall had a handsome vote.

Our summer and fall have been wet beyond all imagination in some places, and much so everywhere. The crops of corn are in general plentiful. The price up the country will not exceed 8 or 10s. In this district it is scareest and dearest, being already as high as 12 or 15s. The crop of Tobacco will

fall short considerably, it is calculated, of the last year's. The highest and lowest prices in the Country, of the new crop, are 25 and 20s. A rise is confidently expected.

My next will be from New York, whither I shall set out as soon as the principal business of the Session is over. Till my arrival there I postpone communications relative to our national affairs, which I shall then be able to make on better grounds, as well as some circumstances relative to the affairs of this State, which the hurry of the present opportunity restrains me from entering into.

Adieu.

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TO GENERAL WASHINGTON.

RICHMOND, December 7th, 1786.

DEAR SIR,—Notwithstanding the communications in your favor of the 18th ult<sup>o</sup>, which has remained until now unacknowledged, it was the opinion of every judicious friend whom I consulted that your name could not be spared from the Deputation to the meeting in May, at Philadelphia. It was supposed, in the first place, that the peculiarity of the Mission, and its acknowledged pre-eminence over every other public object, may possibly reconcile your undertaking it with the respect which is justly due, and which you wish to pay, to the late officers of the Army; and, in the second place, that although you should find that or any other consideration an obstacle to your attendance on the service, the advantage of having your name in the front of the appointment, as a mark of the earnestness of Virginia, and an invitation to the most select characters from every part of the Confederacy, ought at all events to be made use of. In these sentiments I own I fully concurred, and flatter myself that they will at least apologize for my departure from those held out in your letter. I even flatter myself that they will merit a serious consideration with yourself whether the difficulties which you enumerate ought not to give way to them.

The affair of the Mississippi, which was brought before the Assembly in a long memorial from the Western members and some of the officers, has undergone a full consideration of both Houses. The resolutions printed in the papers were agreed to unanimously in the House of Delegates. In the Senate, I am told, the language was objected to by some members as too pointed. They certainly express in substance the decided sense of the Country at this time on the subject, and were offered in the place of some which went much farther, and which were in other respects exceptionable. I am entirely convinced, from what I observe here, that unless the project of Congress [for ceding to Spain the Mississippi for 25 years] can be reversed, the hopes of carrying this State into a proper federal system will be demolished. Many of our most federal leading men are extremely soured with what has already passed. Mr. Henry, who has been hitherto the champion of the federal cause, has become a cold advocate, and in the event of an actual sacrifice of the Mississippi by Congress, will unquestionably go over to the opposite side. I have a letter from Col. Grayson of late date, which tells me that nothing further has been done in Congress, and one from Mr. A. Clarke, of New Jersey, which informs me that he expected every day instructions from his Legislature for reversing the vote given by the Delegates of that State in favor of the project.

The temper of the Assembly at the beginning of the session augured an escape from every measure this year not consonant to the proper principles of Legislation. I fear, now, that the conclusion will contradict the promising outset. In admitting Tobacco for a commutable, we perhaps swerved a little from the line in which we set out. I acquiesced in the measure myself as a prudential compliance with the clamours within doors and without, and as a probable means of obviating more hurtful experiments. I find, however, now, that it either had no such tendency, or that schemes were in embryo which I was not aware of. A Bill for establishing District Courts has been clogged with a plan for installing all debts now due, so as to make them payable in three annual portions. What the fate



of the experiment will be I know not. It seems pretty certain that if it fails, the bill will fail with it. It is urged in support of the measure that it will be favorable to debtors and creditors both, and that, without it, the bill for accelerating justice would ruin the former and endanger the public repose. The objections are so numerous, and of such a nature, that I shall myself give up the bill rather than pay such a price for it.

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TO COL. JAMES MADISON.

RICHMOND, Dec<sup>r</sup> 12th, 1786.

HON<sup>d</sup> SIR,—The inclosed paper will give you a knowledge of the mode and terms on which Tobacco is made a Commutable. It also contains some Resolutions of importance relative to the navigation of the Mississippi. The Senate have concurred in them, though not unanimously. Some of the members of that branch objected to the pointedness of the language; others doubted the propriety of taking up a subject of so delicate a nature without official information from the delegation in Congress.

The repeal of the port bill was yesterday a subject of discussion, and rejected by 70 against 36, so that the law is likely to become permanent. Amendments, however, are necessary, and will probably take place. We have a bill depending for establishing District Courts, differing from the Assize in this respect, that the former will be vested with as compleat jurisdiction within the District as the General Court exercises over the whole State. Unhappily, it is clogged with a clause installing all debts among ourselves, so as to make them payable in three annual portions. Such an interposition of the law in private contracts is not to be vindicated on any Legislative principle within my knowledge, and seems obnoxious to the strongest objections which prevailed against paper money. How it will be relished I cannot say, the matter not having yet been taken into discussion. I think it probable that it will miscarry, and that it will involve the District bill in its fate.

No thorough revision of the taxes has yet taken place. The inclosed report of a Committee will present some ideas which are to be discussed. In general, the bias of the House seems to be strongly towards taxes which are to operate indirectly, and on articles of luxury. The lawyers and County Court clerks are also likely to be squeezed. One-tenth of the fees of the former, and one-third of those of the latter, were voted to-day to be a proper share for the public. Riding Carriages were also voted to be proper objects of additional taxation. Coaches, &c., are to pay six dollars per wheel, Phaetons 4 dollars, and Chairs, &c., 2 dollars per wheel. Whether these extravagant ideas will be persisted in is uncertain. I can scarcely suppose they will, in their full extent.

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The Convention in Kentucky was prevented by the Expeditions into the Indian Country. It is proposed that another Convention shall be authorized to decide the question of their Independence.

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TO JAMES MONROE.

RICHMOND, December 21st, 1786.

DEAR SIR,— \* \* \* \* \*

We hear nothing from any of the other States on the subject of the federal Convention. The ice seems to have intercepted totally the Northern communication for a considerable time past. The Assembly have been much occupied of late with the bill for district Courts. On the final question there was a majority of one against it, in fact, though on the count a mistake made the division equal, and it fell to the Chair to decide, who passed the bill. The real majority, however, were sensible of the mistake, and refused to agree to the title, threatening a secession at the same time. The result was a compromise, that the question should be decided anew the next morning, when the bill was lost in a full house by a single voice. It is now proposed to extend the Session of the General Court so as to

accelerate the business depending there. We hear that Maryland is much agitated on the score of paper money, the House of Delegates having decided in favour of an emission.

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TO GENERAL WASHINGTON.

RICHMOND, December 24th, 1786.

DEAR SIR,—Your favor of the 16th instant came to hand too late on thursday evening to be answered by the last mail. I have considered well the circumstances which it confidentially discloses, as well as those contained in your preceding favor. The difficulties which they oppose to an acceptance of the appointment, in which you are included, can as little be denied as they can fail to be regretted. But I still am inclined to think that the posture of our affairs, if it should continue, would prevent every criticism on the situation which the cotemporary meetings would place you in; and that at least a door could be kept open for your acceptance hereafter, in case the gathering clouds become so dark and menacing as to supersede every consideration but that of our national existence and safety. A suspension of your ultimate determination would be nowise inconvenient in a public view, as the Executive are authorised to fill vacancies, and can fill them at any time; and, in any event, three out of seven deputies are authorized to represent the State. How far it may be admissible in another view will depend, perhaps, in some measure, on the chance of your finally undertaking the service, but principally on the correspondence which is now passing on the subject between yourself and the Governor.

Your observations on Tobacco as a commutable in the taxes are certainly just and unanswerable. My acquiescence in the measure was against every general principle which I have embraced, and was extorted by a fear that some greater evil under the name of relief to the people would be substituted. I am far from being sure, however, that I did right. The other evils contended for have, indeed, been as yet parried, but it is very

questionable whether the concession in the affair of the Tobacco had much hand in it. The original object was paper money. Petitions for graduating certificates succeeded. Next came instalments. And, lastly, a project for making property a tender for debts at four-fifths of its value. All these have been happily got rid of by very large majorities. But the positive efforts in favor of Justice have been less successful. A plan for reforming the administration in this branch, accommodated more to the general opinion than the Assize plan, got as far as the third reading, and was then lost by a single vote. The Senate would have passed it readily, and would have even added amendments of the right complexion. I fear it will be some time before this necessary reform will again have a fair chance. Besides some other grounds of apprehension, it may well be supposed that the Bill, which is to be printed for consideration of the public, will, instead of calling forth the sanction of the wise and virtuous, be a signal to interested men to redouble their efforts to get into the Legislature.

The Revenue business is still unfinished. The present rage seems to be to draw all our income from trade. From the sample given of the temper of the House of Delegates on this subject, it is much to be feared that the duties will be augmented with so daring a hand, that we shall drive away our trade instead of making it tributary to our Treasury. The only hope that can be indulged is that of moderating the fury. The port bill was defended against a repeal by about 70 votes against about 40. The revised code is not quite finished, and must receive the last hand from a succeeding Assembly. Several bills of consequence being rendered unfit to be passed in their present form, by a change of circumstances since they were prepared, necessarily require revision. Others, as the Education bill, &c., are thought to be adapted only to a further degree of wealth and population. Others, as the Execution bill, which subjects lands to debts, do not find yet an adequate patronage. Several bills, also, and particularly the bill relating to crimes and punishments, have been rejected, and require reconsideration from another Assembly. This last bill, after being purged

of its objectionable peculiarities, was thrown out on the third reading by a single vote.

It will little elevate your idea of our Senate to be told that they negatived the bill defining the privileges of Ambassadors, on the principle, as I am told, that an alien ought not to be put on better ground than a citizen. British debts have not yet been mentioned, and probably will not, unless Congress say something on the matter before the adjournment.

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TO EDMUND PENDLETON.

RICHMOND, January 9th, 1787.

MY DEAR SIR,—Your favor of the 9th ultimo has been so long on hand unanswered, that I cannot now acknowledge it without observing, in the apology for the delay, that I waited for some measures of which I wished to communicate the event. The district bill, of which I formerly made mention, was finally thrown into a very curious situation, and lost by a single voice. I refer you for its history to Col. Pendleton, who was here at the time, and is now with you. An attempt has been since made to render the General Court more efficient, by lengthening its terms, and transferring the criminal business to the Judges of the Admiralty. As most of the little motives which co-operated with a dislike to Justice in defeating the District Bill happened to be in favour of the subsequent attempt, it went through the House of Delegates by a large majority. The Senate have disappointed the majority infinitely in putting a negative on it, as we just learn that they have done, by a single voice. An amendment of the County Courts has also been lost, through a disagreement of the two Houses on the subject. Our merit on the score of Justice has been entirely of the negative kind. It has been sufficient to reject violations of this cardinal virtue, but not to make any positive provisions in its behalf.

The revised code has not been so thoroughly passed as I hoped at the date of my last. The advance of the session, the coldness of a great many, and the dislike of some to the subject,

required that it should be pressed more gently than could be reconciled with a prosecution of the work to the end. I had long foreseen that a supplemental revision, as well of some of the articles of the Code as of the laws passed since it was digested, would become necessary, and had settled a plan for the purpose with myself. This plan was to suspend the laws adopted from the Code until the supplement could be prepared, and then to put the whole in force at once. Several circumstances satisfied me of late, that if the work was put within the reach of the next Assembly, there would be danger not only of its being left in a mutilated state, but of its being lost altogether. The observations in your favor above acknowledged encouraged me to propose that the parts of the Code adopted should take effect without waiting for the last hand to it. This idea has been pursued, and the bills passed at the last session are to commence as then determined, those passed at the present being suspended until July next.

I would myself have preferred a suspension of the former also till July, for the sake of a more thorough promulgation, and of a cotemporary introduction of the laws, many of which are connected together; but the Senate thought otherwise, and in a ticklish stage of the session, the friends of the code in the House of Delegates joined me in opinion that it would be well to create no unnecessary delays or disagreements. I have strong apprehensions that the work may never be systematically perfected, for the reasons which you deduce from our form of Government. Should a disposition, however, continue in the Legislature as favorable as it has been in some stages of the business, I think a succession of revisions, each growing shorter than the preceding, might ultimately bring a completion within the compass of a single session. At all events, the invaluable acquisition of important bills, prepared at leisure by skilful hands, is so sensibly impressed on thinking people by the crudeness and tedious discussion of such as are generally introduced, that the expence of a continued revision will be thought by all such to be judiciously laid out for this purpose alone.

The great objection which I personally feel arises from the necessity we are under of imposing the weight of these projects on those whose past services have so justly purchased an exemption from future labours. In your case, the additional consideration of ill health became almost an affair of conscience, and I have been no otherwise able to stifle the remorse of having nominated you, along with Mr. Wythe and Mr. Blair, for reviewing the subject left unfinished, than by reflecting that your colleagues will feel every disposition to abridge your share of the burden, and in case of such an increase of your infirmity as to oblige you to renounce all share, that they are authorised to appoint to, I will not say to *fill*, the vacancy. I flatter myself that you will be at least able to assist in general consultations on the subject, and to adjust the bills unpassed to the changes which have taken place since they were prepared. On the most unfortunate suppositions, my intentions will be sure to find in your benevolence a pardon for my error.

The Senate have saved our commerce from a dreadful blow which it would have sustained from a bill passed in the House of Delegates, imposing enormous duties, without waiting for the concurrence of the other States, or even of Maryland. There is a rage at present for high duties, partly for the purpose of revenue, partly of forcing manufactures, which it is difficult to resist. It seems to be forgotten, in the first case, that in the arithmetic of the customs, as Dean Swift observes, 2 and 2 do not make four; and in the second, that manufactures will come of themselves when we are ripe for them. A prevailing argument, among others on the subject, is, that we ought not to be dependent on foreign nations for useful articles, as the event of a war may cut off all external supplies. This argument certainly loses its force when it is considered that, in case of a war hereafter, we should stand on very different ground from what we lately did. Neutral nations, whose rights are becoming every day more and more extensive, would not now suffer themselves to be shut out from our ports, nor would the hostile Nation presume to attempt it. As far as relates to implements

of war, which are contraband, the argument for our fabrication of them is certainly good.

Our latest information from the Eastward has not removed our apprehensions of ominous events in that quarter. It is pretty certain that the seditious party has become formidable to the Government, and that they have opened a communication with the viceroy of Canada. I am not enough acquainted with the proceedings of Congress to judge of some of the points which you advert to. The regulations of their land office have appeared to me nearly in the light in which they do to you.

I expect to set out in a few days for New York, when I shall revive my claim to a correspondence which formerly gave me so much pleasure, and which will enable me, perhaps, to answer your queries. The end of my paper will excuse an abrupt but affectionate adieu.

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TO THOMAS JEFFERSON.

NEW YORK, February 15th, 1787.

DEAR SIR,—My last was from Richmond, of the 4th of December, and contained a sketch of our Legislative proceedings prior to that date.

The principal proceedings of subsequent date relate, as nearly as I can recollect, 1<sup>st</sup>, to a rejection of the Bill on crimes and punishments, which, after being altered so as to remove most of the objections, as was thought, was lost by a single vote. The rage against Horse-stealers had a great influence on the fate of the bill. Our old bloody code is by this event fully restored, the prerogative of conditional pardon having been taken from the Executive by a judgment of the Court of Appeals, and the temporary law granting it to them having expired, and been left unrevived. I am not without hope that the rejected bill will find a more favorable disposition in the next Assembly. 2<sup>dly</sup>. To the bill for diffusing knowledge;



it went through two readings by a small majority, and was not pushed to a third one. The necessity of a systematic provision on the subject was admitted on all hands. The objections against that particular provision were: 1. The expence, which was alleged to exceed the ability of the people. 2. The difficulty of executing it in the present sparse settlement of the country. 3. The inequality of the districts, as contended by the Western members. The last objection is of little weight, and might have been easily removed if it had been urged in an early stage of the discussion. The bill now rests on the same footing with the other unpassed Bills in the Revisal.

3<sup>dly</sup>. To the Revisal at large. It was found impossible to get through the system at the late session, for several reasons: 1. The changes which have taken place, since its complement, in our affairs and our laws, particularly those relating to our Courts, called for changes in some of the bills, which could not be made with safety by the Legislature. 2. The pressure of other business, which, though of less importance in itself, yet was more interesting for the moment. 3. The alarm excited by an approach toward the Execution bill, which subjects land to the payment of debts. This bill could not have been carried, was too important to be lost, and even too difficult to be amended without destroying its texture. 4. The danger of passing the Repealing Bill at the end of the Code, before the operation of the various amendments, &c., made by the Assembly, could be leisurely examined by competent Judges. Under these circumstances, it was thought best to hand over the residue of the work to our successors; and in order to have it made compleat, Mr. Pendleton, Mr. Wythe, and Blair, were appointed a Committee to amend the unpassed bills, and also to prepare a supplemental revision of the laws which have been passed since the original work was executed.

It became a critical question with the friends of the Revisal whether the parts of the Revisal actually passed should be suspended in the mean time, or left to take their operation. The first plan was strongly recommended by the advantage of giving effect to the system at once, and by the inconveniency

arising from the latter, of leaving the old laws to a constructive repeal only. The latter, notwithstanding, was preferred, as putting the adopted bills out of the reach of a succeeding Assembly, which might possibly be unfriendly to the system altogether. There was good reason to suspect Mr. Henry, who will certainly be then a member. By suffering the bills which have passed to take effect in the mean time, it will be extremely difficult to get rid of them.

4<sup>thly</sup>. Religion. The act incorporating the protestant Episcopal Church excited the most pointed opposition from the other sects. They even pushed their attacks against the reservation of the Glebes, &c., to the church exclusively. The latter circumstance involved the Legislature in some embarrassment. The result was a repeal of the act, with a saving of the property. 5<sup>th</sup>. The district Courts. After a great struggle, they were lost in the House of Delegates by a single voice. 6<sup>thly</sup>. Taxes. The attempts to reduce former taxes were baffled, and sundry new taxes added: on lawyers,  $\frac{1}{16}$  of their fees; on Clerks of Courts,  $\frac{1}{4}$  of do.; on Doctors, a small tax; a tax on houses in towns, so as to level their burden with that of real estate in the country; very heavy taxes on riding carriages, &c. Besides these, an additional duty of 2 per cent. ad valorem on all merchandises imported in vessels of nations not in treaty with the United States, an additional duty of four pence on every gallon of wine except French wines, and of two pence on every gallon of distilled spirits except French brandies, which are made duty free. The exceptions in favor of France were the effect of the sentiments and regulations communicated to you by Mr. Calonne. A printed copy of the communication was received the last day of the session in a newspaper from New York, and made a warm impression on the Assembly. Some of the taxes are liable to objections, and were much complained of. With the additional duties on trade, they will considerably enhance our revenue. I should have mentioned a duty of 6s. per Hogshead on Tobacco for complying with a special requisition of Congress for supporting the corps of men raised for the public security.

7<sup>th</sup>. The Mississippi. At the date of my last, the House of Delegates only had entered into Resolutions against a surrender of the right of navigating it. The Senate shortly after concurred. The States south of Virginia still adhere, as far as I can learn, to the same ideas as have governed Virginia. New Jersey, one of the States in Congress which was on the opposite side, has now instructed her Delegates against surrendering to Spain the navigation of the River, even for a limited time; and Pennsylvania, it is expected, will do the same. I am told that Mr. Jay has not ventured to proceed in his project, and I suppose will not now do it. 8<sup>th</sup>. The Convention for amending the federal Constitution. At the date of my last, Virginia had passed an act for appointing deputies. The deputation consists of General Washington, Mr. Henry, late Governor, Mr. Randolph, present Governor, Mr. Blair, Mr. Wythe, Col. Mason, and James Madison.

North Carolina has also made an appointment, including her present and late Governor. South Carolina, it is expected by her delegates in Congress, will not fail to follow these examples. Maryland has determined, I just hear, to appoint, but has not yet agreed on her deputies. Delaware, Pennsylvania, and New Jersey, have made respectable appointments. New York has not yet decided on the point. Her Assembly has just rejected the impost, which has an unpropitious aspect. It is not clear, however, that she may not yet accede to the other measure. Connecticut has a great aversion to Conventions, and is otherwise habitually disinclined to abridge her State prerogatives. Her concurrence, nevertheless, is not despaired of. Massachusetts, it is said, will concur, though hitherto not well inclined. New Hampshire will probably do as she does. Rhode Island can be relied on for nothing that is good. On all great points, she must sooner or later bend to Massachusetts and Connecticut.

Having but just come to this place, I do not undertake to give you any general view of American affairs, or of the particular state of things in Massachusetts. The omission is probably of little consequence, as information of this sort must fall

within your correspondence with the office of foreign affairs. I shall not, however, plead this consideration in a future letter, when I hope to be more able to write fully.

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TO GENERAL WASHINGTON.

NEW YORK, Feb. 21, 1787.

DEAR SIR,—Some little time before my arrival here, a quorum of the States was made up, and General St. Clair put in the Chair. We have at present nine States on the ground, but shall lose South Carolina to-day. Other States are daily expected. What business of moment may be done by the present or a fuller meeting is uncertain.

The objects now depending and most immediately in prospect are: 1. The Treaty of Peace. The Secretary of foreign Affairs has very ably reported a view of the infractions on both sides, his exposition of the contested articles, and the steps proper to be taken by Congress. I find, what I was not before apprized of, that more than one infraction on our part preceded even the violation on the other side in the instance of the negroes. Some of the reasoning on the subject of the debts would be rather grating to Virginia. A full compliance with the Treaty according to judicial constructions, and as a ground for insisting on a reciprocal compliance, is the proposition in which the Report terminates. 2. A recommendation of the proposed Convention in May. Congress have been much divided and embarrassed on the question whether their taking an interest in the measure would impede or promote it. On one side it has been urged that some of the backward States have scruples against acceding to it without some constitutional sanction; on the other, that other States will consider any interference of Congress as proceeding from the same views which have hitherto excited their jealousies. A vote of the Legislature here, entered into yesterday, will give some relief in the case. They have instructed their delegates in Congress to move for the reconsid-

eration in question. The vote was carried by a majority of one only in the Senate, and there is room to suspect that the minority were actuated by a dislike to the substance, rather than by any objection against the form of the business. A large majority in the other Branch a few days ago put a definitive veto on the Impost.

It would seem as if the politics of this State are directed by individual interests and plans, which might be incommoded by the controul of an efficient federal Government. The four States north of it are still to make their decision on the subject of the Convention. I am told by one of the Massachusetts delegates that the Legislature of that State, which is now sitting, will certainly accede and appoint Deputies if Congress declare their approbation of the measure. I have similar information that Connecticut will probably come in, though it is said that the interference of Congress will rather have a contrary tendency there. It is expected that South Carolina will not fail to adopt the plan, and that Georgia is equally well disposed. All the intermediate States between the former and New York have already appointed Deputies, except Maryland, which, it is said, means to do it, and has entered into some vote which declares as much. Nothing has yet been done by the new Congress with regard to the Mississippi.

Our latest information from Massachusetts gives hopes that the meeting, or, as the Legislature there now style it, the Rebellion, is nearly extinct. If the measures, however, on foot for *disarming* and *disfranchising* those concerned in it should be carried into effect, a new crisis may be brought on.

I have not been here long enough to gather the general sentiments of leading characters touching our affairs and prospects. I am inclined to hope that they will gradually be concentrated in the plan of a thorough reform of the existing system. Those who may lean towards a monarchical government, and who, I suspect, are swayed by very indigested ideas, will of course abandon an unattainable object whenever a prospect opens of rendering the Republican form competent to its purposes. Those who remain attached to the latter form must soon perceive that

it cannot be preserved at all under any modification which does not redress the ills experienced from our present establishments. Virginia is the only State which has made any provision for the late moderate but essential requisition of Congress, and her provision is a partial one only.

This would have been of earlier date, but I have waited for more interesting subjects for it. I shall do myself the pleasure of repeating the liberty of dropping you a few lines as often as proper occasions arise, on no other condition, however, than your waiving the trouble of regular answers or acknowledgements on your part.

With the greatest respect and affection, I am, D<sup>r</sup> Sir, your obt friend and serv.

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TO THE HON<sup>BLE</sup> EDMUND PENDLETON.

NEW YORK, February 24, 1787.

DEAR SIR,—If the contents of the newspapers of this place find their way into the Gazettes of Richmond, you will have learnt that the expedition of General Lincoln against the insurgents has effectually dispersed the main body of them. It appears, however, that there are still some detachments which remain to be subdued, and that the government of Massachusetts consider very strong precautions as necessary against farther eruptions. The principal incendiaries have, unluckily, made off. By some it is said that they are gone to Canada; by others, that they have taken shelter in Vermont; and by some, that they are opening a communication with the upper parts of this State. The latter suggestion has probably some color, as the Governor here has thought proper to offer rewards for them, after the example of Governor Bowdoin. We have no interesting information from Europe.

The only step of moment taken by Congress, since my arrival, has been a recommendation of the proposed meeting in May, for revising the federal Articles. Some of the States, considering

this measure as an extra-constitutional one, had scruples against concurring in it without some regular sanction. By others, it was thought best that Congress should remain neutral in the business, as the best antidote for the jealousy of an ambitious desire in them to get more power into their hands. This suspense was at length removed by an instruction from this State to its delegates to urge a recommendatory Resolution in Congress, which accordingly passed a few days ago. Notwithstanding this instruction from N. York, there is room to suspect her disposition not to be very federal, a large majority of the House of Delegates having very lately entered into a definitive refusal of the impost, and the instruction itself having passed in the Senate by a casting vote only. In consequence of the sanction given by Congress, Massachusetts, it is said, will send Deputies to the Convention, and her example will have great weight with the other New England States. The States from North Carolina to New Jersey, inclusive, have made their appointments, except Maryland, who has, as yet, only determined that she will make them. The gentlemen here from South Carolina and Georgia expect that those States will follow the general example. Upon the whole, therefore, it seems probable that a meeting will take place, and that it will be a pretty full one.

What the issue of it will be is among the other arcana of futurity, and nearly as inscrutable as any of them. In general, I find men of reflection much less sanguine as to a new, than despondent as to the present system. Indeed, the present system neither has nor deserves advocates; and if some very strong props are not applied, will quickly tumble to the ground. No money is paid into the public Treasury; no respect is paid to the federal authority. Not a single State complies with the requisitions; several pass them over in silence, and some positively reject them. The payments, ever since the peace, have been decreasing, and of late fall short even of the pittance necessary for the civil list of the Confederacy. It is not possible that a Government can last long under these circumstances.

If the approaching convention should not agree on some rem-

edy, I am persuaded that some very different arrangement will ensue. The late turbulent scenes in Massachusetts, and infamous ones in Rhode Island, have done inexpressible injury to the republican character in that part of the United States, and a propensity towards monarchy is said to have been produced by it in some leading minds. The bulk of the people will probably prefer the lesser evil of a partition of the Union into three more practicable and energetic governments. The latter idea, I find, after long confinement to individual speculations and private circles, is beginning to shew itself in the newspapers. But though it is a lesser evil, it is so great a one that I hope the danger of it will rouse all the real friends of the Revolution to exert themselves in favor of such an organization of the Confederacy as will perpetuate the Union and redeem the honor of the Republican name.

I shall follow this introductory letter with a few lines from time to time, as a proper subject for them occurs. The only stipulation I exact on your part is, that you will not consider them as claiming either answers or acknowledgements, and that you will believe me to be, with sincerest wishes for your health and every other happiness.

Your affectionate friend and serv.

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TO COL. JAMES MADISON.

NEW YORK, Febr 25th, 1787.

HON<sup>d</sup> SIR,—

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The success of General Lincoln against the insurgents has corresponded with the hopes of the Government. It is still said, notwithstanding, that there remains a great deal of leaven in the mass of the people. Connecticut has not caught the fermentation, but she pays no taxes. Congress received a letter a few days ago from the Governor of that State, inclosing a non-compliance of the Assembly with the requisitions of Congress. In fact, payments to the federal Treasury are ceasing everywhere,



and the minds of people losing all confidence in our political system. What change may be wrought by the proposed Convention is uncertain. There is a prospect, at present, of pretty general appointments to it.

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TO GENERAL WASHINGTON.

NEW YORK, March 18th, 1787.

DEAR SIR,—Recollecting to have heard you mention a plan formed by the Empress of Russia for a comparative view of the Aborigines of the new Continent, and of the N. E. parts of the old, through the medium of their respective tongues, and that her wishes had been conveyed to you for your aid in obtaining the American vocabularies, I have availed myself of an opportunity, offered by the kindness of Mr. Hawkins, of taking a copy of such a sample of the Cherokee and Choctaw dialects as his late commission to treat with them enabled him to obtain, and do myself the honor now of enclosing it. I do not know how far the list of words made use of by Mr. Hawkins may correspond with the standard of the Empress, nor how far nations so remote as the Cherokees and Choctaws from the N. W. shores of America may fall within the scheme of comparison. I presume, however, that a great proportion, at least, of the words will answer, and that the laudable curiosity which suggests investigations of this sort will be pleased with every enlargement of the field for indulging it. Not finding it convenient to retain a copy of the enclosed, as I wished to do, for myself, I must ask the favor of your amanuensis to perform that task for me.

The appointments for the Convention go on very successfully. Since the date of my last, Georgia, South Carolina, New York, Massachusetts, and New Hampshire, have come into the measure. Georgia and New Hampshire have constituted their Delegates in Congress their representatives in Convention. South Carolina has appointed Mr. J. Rutledge, General Pinckney, Mr.

Laurens, Major Butler, and Mr. Charles Pinckney, late member of Congress. The deputies of Massachusetts are Mr. Dana, Mr. King, Mr. Gorham, Mr. Gerry, Mr. Strong. I am told that a Resolution of the Legislature of this State, which originated with their Senate, lays its deputies under the fetter of not departing from the 5<sup>th</sup> of the present articles of Confederation. As this Resolution passed before the recommendatory act of Congress was known, it is conjectured that it may be rescinded; but its having passed at all denotes a much greater prevalence of political jealousy in that quarter than had been imagined. The deputation of New York consists of Colonel Hamilton, Judge Yates, and a Mr. Lansing. The two last are said to be pretty much linked to the anti-federal party here, and are likely, of course, to be a clog on their colleague. It is not doubted, now, that Connecticut and Rhode Island will avoid the singularity of being unrepresented in the Convention.

The thinness of Congress has been an obstacle to all the important business before them. At present there are nine States on the ground; but this number, though adequate to every object when unanimous, makes a slow progress in business that requires seven States only. And I see little prospect of the number being increased.

By our latest and most authentic information from Massachusetts, it would seem that a calm has been restored by the expedition of General Lincoln. The precautions taking by the State, however, betray a great distrust of its continuance. Besides their act disqualifying the malcontents from voting in the election of members for the Legislature, &c., another has been passed for raising a corps of 1,000 or 1,500 men, and appropriating the choicest revenues of the country to its support. It is said that at least half of the insurgents decline accepting the terms annexed to the amnesty, and that this defiance of the law against Treason is countenanced not only by the impunity with which they shew themselves on public occasions, even with insolent badges of their character, but by marks of popular favor conferred on them in various instances in the election to local offices.

A proposition has been introduced and discussed in the Legislature of this State for relinquishing its claim to Vermont, and urging the admission of it into the Confederacy. As far as I can learn, difficulties will arise only in settling the form, the substance of the measures being not disliked by any of the parties. It is wished by those who are not interested in claims to lands within that district to guard against any responsibility in the State for compensation. On the other side, it will at least be insisted that they shall not be barred the privilege of carrying their claims before a federal court, in case Vermont shall become a party to the Union. I think it probable, if she should not decline becoming such altogether, that she will make two conditions, if not more: 1. That neither her boundaries nor the rights of her citizens shall be impeachable under the 9<sup>th</sup> article of Confederation. 2. That no share of the public debt already contracted shall be allotted to her.

I have a letter from Col. John Campbell, dated at Pittsburg, from which I gather that the people of that quarter are thrown into great agitation by the reported intention of Congress concerning the Mississippi, and that measures are on foot for uniting the minds of all the different settlements which have a common interest at stake. Should this policy take effect, I think there is much ground to apprehend that the ambition of individuals will quickly mix itself with the first impulses of resentment and interest; that by degrees the people may be led to set up for themselves; that they will slide, like Vermont, insensibly into a communication and latent connection with their British neighbors, and, in pursuance of the same example, make such a disposition of the Western Territory as will entice into it most effectually emigrants from all parts of the Union. If these apprehensions be not imaginary, they suggest many observations extremely interesting to Spain as well as to the United States.

I hear from Richmond, with much concern, that Mr. Henry has positively declined his mission to Philadelphia. Besides the loss of his services on that theatre, there is danger, I fear, that this step has proceeded from a wish to leave his conduct

unfettered on another theatre, where the result of the Convention will receive its destiny from his omnipotence.

With every sentiment of esteem and affection, I remain, Dear Sir, your obt and very h'ble serv.

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TO THOMAS JEFFERSON.

NEW YORK, March 19th, 1787.

DEAR SIR,—My last was of the 11th of February, and went by the packet. This will go to England in the care of a French gentleman, who will consign it to the care of Mr. Adams.

The appointments for the Convention go on auspiciously. Since my last, Georgia, South Carolina, New York, Massachusetts, and New Hampshire, have come into the measure. The first and the last of these States have commissioned their delegates to Congress as their representatives in Convention. The deputation of Massachusetts consists of Mess<sup>rs</sup>. Gorham, Dana, King, Gerry, and Strong. That of New York, Mess<sup>rs</sup>. Hamilton, Yates, and Lansing. That of South Carolina, Mess<sup>rs</sup>. J. Rutledge, Laurens, Pinckney, (General,) Butler, and Charles Pinckney, lately member of Congress. The States which have not yet appointed are Rhode Island, Connecticut, and Maryland. The last has taken measures which prove her intention to appoint, and the two former it is not doubted will follow the example of their neighbours. I just learn from the Governor of Virginia that Mr. Henry has resigned his place in the deputation from that State, and that General Nelson is put into it by the Executive, who were authorised to fill vacancies. The Governor, Mr. Wythe, and Mr. Blair, will attend, and some hopes are entertained of Col. Mason's attendance. General Washington has prudently authorised no expectations of his attendance, but has not either precluded himself absolutely from stepping into the field if the crisis should demand it.

What may be the result of this political experiment cannot be foreseen. The difficulties which present themselves are, on

one side, almost sufficient to dismay the most sanguine, whilst on the other side the most timid are compelled to encounter them by the mortal diseases of the existing Constitution. These diseases need not be pointed out to you, who so well understand them. Suffice it to say, that they are at present marked by symptoms which are truly alarming, which have tainted the faith of the most orthodox republicans, and which challenge from the votaries of liberty every concession in favor of stable Government not infringing fundamental principles, as the only security against an opposite extreme of our present situation.

I think myself that it will be expedient, in the first place, to lay the foundation of the new system in such a ratification by the people themselves of the several States as will render it clearly paramount to their Legislative authorities. 2<sup>dy</sup>. Over and above the positive power of regulating trade and sundry other matters in which uniformity is proper, to arm the federal head with a negative *in all cases whatsoever* on the local Legislatures. Without this defensive power, experience and reflection have satisfied me that, however ample the federal powers may be made, or however clearly their boundaries may be delineated on paper, they will be easily and continually baffled by the Legislative sovereignties of the States. The effects of this provision would be not only to guard the national rights and interests against invasion, but also to restrain the States from thwarting and molesting each other; and even from oppressing the minority within themselves by paper money and other unrighteous measures which favor the interest of the majority. In order to render the exercise of such a negative prerogative convenient, an emanation of it must be vested in some set of men within the several States, so far as to enable them to give a temporary sanction to laws of immediate necessity. 3<sup>dy</sup>. To change the principle of Representation in the federal system. Whilst the execution of the acts of Congress depends on the several Legislatures, the equality of votes does not destroy the inequality of importance and influence in the States. But in case of such an augmentation of the federal power as will render it efficient without the intervention of the Legislatures, a

vote in the general Councils from Delaware would be of equal value with one from Massachusetts or Virginia. This change, therefore, is just. I think, also, it will be practicable. A majority of the States conceive that they will be gainers by it. It is recommended to the Eastern States by the actual superiority of their populousness, and to the Southern by their expected superiority; and if a majority of the larger States concur, the fewer and smaller States must finally bend to them. This point being gained, many of the objections now urged in the leading States against renunciations of power will vanish. 4<sup>thly</sup>. To organize the federal powers in such a manner as not to blend together those which ought to be exercised by separate departments. The limited powers now vested in Congress are frequently mismanaged from the want of such a distribution of them. What would be the case under an enlargement not only of the powers, but the number of the federal Representatives? These are some of the leading ideas which have occurred to me, but which may appear to others as improper as they appear to me necessary.

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TO COL. JAMES MADISON.

NEW YORK, April 1st, 1787.

HON<sup>d</sup> SIR,—The general attention is now directed towards the approaching Convention. All the States have appointed deputies to it except Connecticut, Maryland, and Rhode Island. The first, it is not doubted, will appoint, and the second has already resolved on the expediency of the measure. Rhode Island alone has refused her concurrence. A majority of more than twenty in the Legislature of that State has refused to follow the general example. Being conscious of the wickedness of the measures they are pursuing, they are afraid of everything that may become a controul on them. Notwithstanding this prospect of a very full and respectable meeting, no very sanguine expectations can well be indulged. The probable diversity of opinions and prejudices, and of supposed or real inter

ests among the States, renders the issue totally uncertain. The existing embarrassments and mortal diseases of the Confederacy form the only ground of hope that a spirit of concession on all sides may be produced by the general chaos, or at least partitions of the Union, which offers itself as the alternative.

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TO GENERAL WASHINGTON.

NEW YORK, April 16th, 1787.

DEAR SIR,—I have been honored with your letter of the 31 March, and find, with much pleasure, that your views of the reform which ought to be pursued by the Convention give a sanction to those I entertained. Temporising applications will dishonor the councils which propose them, and may foment the internal malignity of the disease, at the same time that they produce an ostensible palliation of it. Radical attempts, although unsuccessful, will at least justify the authors of them.

Having been lately led to revolve the subject which is to undergo the discussion of the Convention, and formed *some* outlines of a new system, I take the liberty of submitting them without apology to your eye.

Conceiving that an individual independence of the States is utterly irreconcilable with their aggregate sovereignty, and that a consolidation of the whole into one simple republic would be as inexpedient as it is unattainable, I have sought for middle ground, which may at once support a due supremacy of the national authority, and not exclude the local authorities wherever they can be subordinately useful.

I would propose as the groundwork, that a change be made in the principle of representation. According to the present form of the Union, in which the intervention of the States is in all great cases necessary to effectuate the measures of Congress, an equality of suffrage does not destroy the inequality of importance in the several members. No one will deny that Virginia and Massachusetts have more weight and influence, both within and without Congress, than Delaware or Rhode Island.

Under a system which would operate in many essential points without the intervention of the State legislatures, the case would be materially altered. A vote in the national Councils from Delaware would then have the same effect and value as one from the largest State in the Union. I am ready to believe that such a change would not be attended with much difficulty. A majority of the States, and those of greatest influence, will regard it as favorable to them. To the northern States it will be recommended by their present populousness; to the Southern, by their expected advantage in this respect. The lesser States must in every event yield to the predominant will. But the consideration which particularly urges a change in the representation is, that it will obviate the principal objections of the larger States to the necessary concessions of power.

I would propose next, that in addition to the present federal powers, the national Government should be armed with positive and compleat authority in all cases which require uniformity; such as the regulation of trade, including the right of taxing both exports and imports, the fixing the terms and forms of naturalization, &c., &c.

Over and above this positive power, a negative *in all cases whatsoever* on the Legislative acts of the States, as heretofore exercised by the Kingly prerogative, appears to me to be absolutely necessary, and to be the least possible encroachment on the State jurisdictions. Without this defensive power, every positive power that can be given on paper will be evaded or defeated. The States will continue to invade the National jurisdiction, to violate treaties and the law of nations, and to harass each other with rival and spiteful measures dictated by mistaken views of interest. Another happy effect of this prerogative would be its controul on the internal vicissitudes of State policy, and the aggressions of interested majorities on the rights of minorities and of individuals. The great desideratum, which has not yet been found for Republican Governments, seems to be some disinterested and dispassionate umpire in disputes between different passions and interests in the State. The majority, who alone have the right of decision, have frequently



an interest, real or supposed, in abusing it. In Monarchies, the Sovereign is more neutral to the interests and views of different parties; but, unfortunately, he too often forms interests of his own, repugnant to those of the whole. Might not the national prerogative here suggested be found sufficiently disinterested for the decision of local questions of policy, whilst it would itself be sufficiently restrained from the pursuit of interests adverse to those of the whole society? There has not been any moment since the peace at which the representatives of the Union would have given an assent to paper money, or any other measure of a kindred nature.

The national supremacy ought also to be extended, as I conceive, to the Judiciary departments. If those who are to expound and apply the laws are connected by their interests and their oaths with the particular States wholly, and not with the Union, the participation of the Union in the making of the laws may be possibly rendered unavailing. It seems at least necessary that the oaths of the Judges should include a fidelity to the general as well as local Constitution, and that an appeal should lie to some National tribunal in all cases to which foreigners or inhabitants of other States may be parties. The admiralty jurisdiction seems to fall entirely within the purview of the National Government.

The National supremacy in the Executive departments is liable to some difficulty, unless the officers administering them could be made appointable by the Supreme Government. The Militia ought certainly to be placed, in some form or other, under the authority which is entrusted with the general protection and defence.

A Government composed of such extensive powers should be well organized and balanced. The legislative department might be divided into two branches; one of them chosen every years, by the people at large, or by the Legislatures; the other to consist of fewer members, to hold their places for a longer term, and to go out in such a rotation as always to leave in office a large majority of old members. Perhaps the negative on the laws might be most conveniently exercised by this

branch. As a further check, a Council of revision, including the great ministerial officers, might be superadded.

A National Executive must also be provided. I have scarcely ventured, as yet, to form my own opinion either of the manner in which it ought to be constituted, or of the authorities with which it ought to be clothed.

An article should be inserted expressly guarantying the tranquillity of the States against internal as well as external dangers.

In like manner the right of coercion should be expressly declared. With the resources of commerce in hand, the National administration might always find means of exerting it either by sea or land. But the difficulty and awkwardness of operating by force on the collective will of a State render it particularly desirable that the necessity of it might be precluded. Perhaps the negative on the laws might create such a mutuality of dependence between the general and particular authorities as to answer this purpose. Or, perhaps, some defined objects of taxation might be submitted, along with commerce, to the general authority.

To give a new system its proper validity and energy, a ratification must be obtained from the people, and not merely from the ordinary authority of the Legislatures. This will be the more essential, as inroads on the *existing Constitutions* of the States will be unavoidable.

The inclosed address to the States on the subject of the Treaty of peace has been agreed to by Congress, and forwarded to the several Executives. We foresee the irritation which it will excite in many of our Countrymen, but could not withhold our approbation of the measure. Both the resolutions and the address passed without a dissenting voice.

Congress continue to be thin, and of course do little business of importance. The settlement of the public accounts, the disposition of the public lands, and arrangements with Spain, are subjects which claim their particular attention. As a step towards the first, the Treasury board are charged with the task of reporting a plan by which the final decision on the claims of the States will be handed over from Congress to a select set of

men, bound by their oaths, and cloathed with the powers of Chancellors. As to the second article, Congress have it themselves under consideration. Between six and seven hundred thousand acres have been surveyed and are ready for sale. The mode of sale, however, will probably be a source of different opinions, as will the mode of disposing of the unsurveyed residue. The Eastern gentlemen remain attached to the scheme of townships. Many others are equally strenuous for indiscriminate locations. The States which have lands of their own for sale are *suspected* of not being hearty in bringing the federal lands to market. The business with Spain is becoming extremely delicate, and the information from the Western settlements truly alarming.

A motion was made some days ago for an adjournment of Congress for a short period, and an appointment of Philadelphia for their reassembling. The eccentricity of this place, as well with regard to East and West as to North and South, has, I find, been for a considerable time a thorn in the minds of many of the Southern members. Suspicion, too, has charged some important votes on the weight thrown by the present position of Congress into the Eastern scale, and predicts that the Eastern members will never concur in any substantial provision or movement for a proper permanent seat for the National Government, whilst they remain so much gratified in its temporary residence. These seem to have been the operative motives with those on one side who were not locally interested in the removal. On the other side, the motives are obvious. Those of real weight were drawn from the apparent caprice with which Congress might be reproached, and particularly from the peculiarity of the existing moment.

I own that I think so much regard due to these considerations, that notwithstanding the principal ones on the other side, I should have assented with great reluctance to the motion, and would even have voted against it, if any probability had existed that, by waiting for a proper time, a proper measure might not be lost for a very long time. The plan which I should have

judged most eligible would have been to fix on the removal whenever a vote could be obtained, but so as that it should not take effect until the commencement of the ensuing federal year. And if an immediate removal had been resolved on, I had intended to propose such a change in the plan. No final question was taken in the case. Some preliminary questions showed that six States were in favor of the motion. Rhode Island, the seventh, was at first on the same side, and Mr. Varnum, one of the delegates, continues so. His colleague was overcome by the solicitations of his Eastern brethren. As neither Maryland nor South Carolina was on the floor, it seems pretty evident that New York has a very precarious tenure of the advantages derived from the abode of Congress.

We understand that the discontents in Massachusetts, which lately produced an appeal to the sword, are now producing a trial of strength in the field of electioneering. The Governor will be displaced. The Senate is said to be already of a popular complexion, and it is expected that the other branch will be still more so. Paper money, it is surmised, will be the engine to be played off against creditors, both public and private. As the event of the elections, however, is not yet decided, this information must be too much blended with conjecture to be regarded as matter of certainty.

I do not learn that the proposed act relating to Vermont has yet gone through all the stages of legislation here; nor can I say whether it will finally pass or not. In truth, it having not been a subject of conversation for some time, I am unable to say what has been done or is likely to be done with it.

*Notes of Ancient and Modern Confederacies, preparatory to the federal Convention of 1787.\**

*Lycian Confederacy.*

In this confederacy, the number of votes allotted to each member was proportioned to its pecuniary contributions. The Judges and town magistrates were elected by the general authority in like proportion.

See Montesquieu, who prefers this mode.

The name of a federal republic may be refused to Lycia, which Montesquieu cites as an example in which the importance of the members determined the proportion of their votes in the general councils. The Grison League is a juster example.—Code de l'Hum. Confederation.

Lyciorum quoque *αρομῶν* celebrat Strabo: de quâ pauca libet heic subjungere. Fuere eorum urbes XXIII, distinctæ in classes tres pro modo virium. In primâ classe censebantur maximæ sex, in alterâ mediæ, numero nobis incerto, in tertiâ reliquæ omnes, quarum fortuna minima. Et singulæ quidem urbes hæc domi res suas curabant, magistratus suos ordinemque civilem suum habebant: universæ tamen in unum coeuntes unam communem rempublicam constituebant, concilioque utebantur uno, velut senatu majore. In eo de bello, de pace, de fœderibus, denique de rerum Lyciacarum summa deliberabant et statuiebant. Coibant vero in concilium hoc ex singulis urbibus missi cum potestate ferendi suffragii: utebanturque eâ in re jure æquissimo. Nam quælibet urbs primæ classis habebat jus suffragiorum trium, secundæ duorum, tertiæ unius. Eademque proportionem tributa quoque conferebant, et munia alia obibant.

\* The reader will doubtless remark that this paper corresponds literally with one printed in the appendix to the 9th volume of Washington's writings, except that the names of the authorities here cited, as well as the passages quoted, are in that entirely omitted. Mr. Sparks states that it was found among the Mount Vernon papers in the handwriting of General Washington. There can be no doubt that it was originally drawn by Mr. Madison, as it exists among his autograph papers precisely as we have here given it, with all the marks of his authorities.

Quemadmodum enim ratio ipsa dietat, et poseit æquitas, ut plura qui possident, et cæteris ditiores sunt, plura etiam in usus communes, et reipublicæ subsidia conferant, sic quoque eadem æquitatis regula postulat, ut in statuendo de re communi iidem illi plus aliis possint: præsertim cum eorundem magis intersit rempublicam esse salvam quam tenuiorum. Locum concilii hujus non habebant fixum et certum, sed ex omnibus urbem deligebant, quæ videbatur pro tempore commodissima. Concilio coacto primum designabant Lyciarcham principem totius reipublicæ, dein magistratus alios creabant, partes reipublicæ administraturos demum judicia publica constituebant. Atque hæc omnia faciebant servatâ proportionem eadem, ut nulla omnino urbs præteriretur numerum ve aut honorum horum non fieret particeps. Et hoc jus illibatum mansit Lyciis ad id usque tempus, quo Romani assumpto Asiæ imperio magnâ ex parte sui arbitrii id fecerunt.—Ubbø Eomius de Lyciorum Republica in Asia. [Apud Grovonii Thes., iv, 597.]

*Amphictyonic Confederacy.*

Instituted by Amphictyon, son of Deucalion, King of Athens, 1522 years Ant. Christ.—Code de l'Humanité.

Seated first at Thermopylæ, then at Delphos, afterwards at these places alternately. It met half yearly, to wit, in the Spring and Fall, besides extraordinary occasions.—Id. In the latter meetings, all such of the Greeks as happened to be at Delphos on a religious errand were admitted to deliberate, but not to vote.—Encyclopedie.

The number and names of the confederated cities differently reported. The union seems to have consisted originally of the Delphians and their neighbors only, and by degrees to have comprehended all Greece. 10, 11, 12, are the different numbers of original members mentioned by different authors.—Code de l'Humanité.

Each city sent two deputies; one to attend particularly to Religious matters, the other to civil and criminal matters affecting individuals; both to decide on matters of a general nature.—Id. Sometimes more than two were sent, but they had two votes only.—Encyclopedie.

The Amphictyons took an oath mutually to defend and protect the united cities, to inflict vengeance on those who should sacrilegiously despoil the temple of Delphos, to punish the violators of this oath, and never to divert the water-courses of any of the Amphictyonic cities, either in peace or in war.—Code de l'Hum. *Æschines orat. vs. Ctesiphontem.*

The Amphictyonic Council was instituted by way of defence and terror against the Barbarians.—Diet<sup>e</sup> de Treviux.

Federal Authority.

The Amphictyons had full power to propose and resolve whatever they judged useful to Greece.—Encycopédie Pol. Œcon.

1. They judged in the last resort all differences between the Amphictyonic cities.—Code de l'Hum.

2. Muled the aggressors.—Id.

3. Employed whole force of Greece against such as refused to execute its decrees.—Id., and Plutarch, *Cimon.*

4. Guarded the immense Riches of the Temple at Delphos, and decided controversies between the inhabitants and those who came to consult the Oracle.—Encyclop.

5. Superintended the Pythian games.—Code de l'Hum.

6. Exercised right of admitting new members.—(See decree admitting Philip, in Demosthenes on Crown.)

7. Appointed General of the federal troops, with full powers to carry their decrees into execution.—Ibid.

8. Declared and carried on war.—Code de l'Human.

Strabo says that the Council of the Amphictyons was dissolved in the time of Augustus; but Pausanias, who lived in the time of Antoninus Pius, says it remained entire then, and that the number of Amphictyons was thirty.—Potter's *Grec. Ant.*, vol. 1, pa. 90.

The institution declined on the admission of Philip, and in the time of the Roman Emperors the functions of the council were reduced to the administration and police of the Temple. This limited authority expired only with the Pagan Religion.—Code de l'Human.

Vices of the Constitution.

It happened but too often that the Deputies of the strongest cities awed and corrupted those of the weaker, and that Judgment went in favor of the most powerful party.—Id. See, also, Plutarch: Themistocles.

Greece was the victim of Philip. If her confederation had been stricter, and been persevered in, she would never have yielded to Macedon, and might have proved a Barrier to the vast projects of Rome.—Code de l'Hum.

Philip had two votes in the Council.—Rawleigh Hist. world, lib. 4, c. 1, Sect. 7.

The execution of the Amphictyonic powers was very different from the Theory.—Id. It did not restrain the parties from warring against each other. Athens and Sparta were members during their conflicts. Quer.: Whether Thucydides or Xenophon, in their Histories, ever allude to the Amphictyonic authority, which ought to have kept the peace?—See Gillies' Hist. Greece, particularly vol. II, p. 345.

#### *Achaean Confederacy.*

In 124 Olymp<sup>d</sup> the Patrians and Dymæans joined first in this league.—Polyb., lib. 2, c. 3.

This League consisted at first of three small cities. Aratus added Sicyon, and drew in many other cities of Achaia and Peloponnesus. Of these he formed a Republic of a peculiar sort.—Code de l'Human.

It consisted of twelve cities, and was produced by the necessity of such a defence against the Etolians.—Encyclo. Pol. Œ., and Polyb., lib. 2.

The members enjoyed a perfect equality, each of them sending the number of deputies to the Senate.—Id.

The Senate assembled in the Spring and Fall, and was also convened on extraordinary occasions by two Prætors, charged with the administration during the recess, but who could execute nothing without the consent of the Inspectors.—Id.

#### Fæderal Authority.

1. The Senate, composed of the deputies, made war and peace.—D'Albon I, page 270.

2. Appointed a Captain General annually.—Co. d'Hum.



3. Transferred the power of deciding to ten citizens taken from the deputies, the rest retaining a right of consultation only.—Id.

4. Sent and received Ambassadors.—D'Albon. Ibid.

5. Appointed a prime Minister.—D'Albon. Ibid.

6. Contracted foreign alliances.—Code de l'Hum.

7. Confederated cities in a manner forced to receive the same laws and customs, weights and measures, (Id., and Polyb., lib. 2, cap. 3.) yet considered as having each their independent police and Magistrates.—Encyclop. Pol. Econ.

8. Penes hoc concilium erat summum rerum arbitrium, ex ejus decreto bella suscipiebantur, et finiebantur, pax conveniebat, fœdera feriebantur et solvebantur, *leges fiebant ratæ aut irritæ*. Hujus etiam erat, Magistratus toti Societati communes eligere, legationes decernere, &c., &c. \* \* Regebant concilium prætor præcipue, si præsens esset, et magistratus alii, quos Achæi *δημοποριος* nuncupabant. Hi numero X erant, suffragiis legitimi concilii, quod verno tempore habebatur, electi ex universa societate prudentia præcipui, quorum concilio potissimum prætor ex lege utebatur. Horum potestas et dignitas maxima erat post ipsum prætorem, quos ideo Livius, Polybium sequens, summum Achæorum magistratum appellat. \* \* Cum his igitur de negociis gravioribus in concilio agitandis prætor præconsultabat, nec de iis, nisi in id pars major consentiret, licebat ad consilium referre.—Ubbo Emmius. [Descr. Reip. Achæorum, Ap. Gron. Thes., iv, 573.]

Ista vero imprimis memorabilis lex est, vinculum societatis Achæicæ maximè stringens, et concordiam muniens, quâ interdictum fuit, ne cui civitati Societatis hujus participi fas esset, seorsim ad externos ultos mittere legatos, non ad Romanos, non ad alios. Et hæc expressim inserta fuit pactis conventis Achæorum cum populo Romano. \* \* \* \* Omnium autem landatissima lex apud eos vixit \* \* \* quâ vetitum, ne quis omnino, sive privatæ conditionis, seu magistratum gerens, ullam ob causam, quæcunque etiam sit, dona a Rege aliquo caperet.—Id. [Ap. Gron. Thes., iv, 575.]

### Vices of the Constitution.

The defect of subjection in the members to the general authority ruined the whole Body. The Romans seduced the members from the League by representing that it violated their sovereignty.—Code de l'Hum.

After the death of Alexander, this Union was dissolved by various dissensions, raised chiefly thro' the acts of the Kings of Macedon. Every city was now engaged in a separate interest, and no longer acted in concert.—Polyb., lib. 2, cap 3. After, in 124 Olymp<sup>d</sup>, they saw their error, and began to think of returning to their former State. This was the time when Pyrrhus invaded Italy.—Ibid.

### *Helvetic Confederacy.*

? Commenced in 1308 by the temporary and in 1315 by the perpetual Union of Uri, Schweiz, and Underwald, for the defence of their liberties against the invasions of the House of Austria. In 1315 the Confederacy included 8 Cantons. In 1513 the number of thirteen was completed by the accession of Appenzel.—Code de l'Hum.

The General Diet representing the United Cantons is composed of two deputies from each. Some of their allies, as the Abbe St. Gall, &c., are allowed by long usage to attend by their deputies.—Id.

All general Diets are held at such time and place as Zurich, which is first in rank and the depository of the common archives, shall name in a circular summons. But the occasion of annual conferences for the administration of their dependent bailages has fixed the same time, to wit, the feast of St. John, for the General Diet, and the city of Frauenfeld, in Turgovia, is now the place of meeting. Formerly it was the city of Baden.—Id.

The Diet is opened by a complimentary address of the first deputy of each canton by turns, called the Helvetic salutation. It consists in a congratulatory review of circumstances and events favorable to their common interest, and exhortations to Union and patriotism.

The deputies of the first canton, Zurich, propose the matters

to be discussed. Questions are decided by plurality of voices. In case of division, the Bailiff of Turgovia has the casting one. The session of the Diet continues about a month.—Id.

After the objects of universal concern are despatched, such of the deputies whose constituents have no share in the dependent bailages withdraw, and the Diet then becomes a representation of the cantons to whom these bailages belong, and proceeds to the consideration of the business relating thereto.—Id.

Extraordinary Diets for incidental business, or giving audience to foreign ministers, may be called at any time by any one of the cantons, or by any foreign minister who will defray the expence of meeting. Seldom a year without an extraordinary Diet.—Stanyan's Switzerland.

There is an annual Diet of 12 cantons, by one deputy from each, for the affairs of the ultra-montane bailages.—Code de l'Human.

Particular cantons also have their diets for their particular affairs, the time and place for whose meeting are settled by their particular treaties.

All public affairs are now treated, not in General Diet, but in the particular assemblies of protestant and catholic cantons.—D'Albon.

Federal Authority.

The title of Republican and Sovereign State improperly given to this Confederacy, which has no concentered authority, the Diets being only a Congress of Delegates from some or all of the cantons, and having no fixt objects that are national.—Dictionnaire de Suisse.

The 13 cantons do not make one Commonwealth like the United Provinces, but are so many independent Commonwealths in strict alliance. There is not so much as any common instrument by which they are all reciprocally bound together. The 3 primitive cantons alone being each directly allied to the other twelve. The others, in many instances, are connected *indirectly*\* only, as allies of allies. In this mode,

\* By the Convention of Stantz, any member attacked has a *direct* claim on the succour of the whole confederacy.—Coxe, p. 313.

any one canton may draw in all the others to make a common cause in its defence.—Stanyan.

The confederacy has no common Treasury, no common troops, no common coin, no common Judicatory, nor any other common mark of sovereignty.—Id.

The General Diet cannot terminate any interesting affair without special instructions and powers, and the deputies accordingly take most matters proposed ad referendum.—Code de l'Hum.

The Cantons individually exercise the right of sending and receiving ambassadors, making treaties, coining money, proscribing the money of one another, prohibiting the importation and exportation of merchandise, furnishing troops to foreign States, and doing everything else which does not wound the liberty of any other canton. Excepting a few cases specified in the alliances, and which directly concern the object of the league, no canton is subject to the Resolutions of the plurality.—Id.

*Defensive of W. S.* The only establishment truly national is that of a federal army, as regulated in 1668, and which is no more than an eventual plan of defence adopted among so many allied States.—Id.

1. The league consists in a perpetual defensive engagement against external attacks and internal troubles. It may be regarded as an axiom in the public law of the confederacy, that the federal engagements are precedent to all other political engagements of the cantons.—Id.

2. Another axiom is, that there are no particular or common possessions of the cantons for the defence of which the others are not bound as Guarantees, or auxiliaries of Guarantees.—Id.

3. All disputes are to be submitted to neutral cantons, who may employ force, if necessary, in execution of their decrees.—Id. Each party to choose 4 Judges, who may, in case of disagreement, choose umpire, and these, under oath of impartiality, to pronounce definitive sentence, which all cantons are to enforce.—D'Albon and Stanyan.

4. No canton ought to form new alliances without the consent of the others; [this was stipulated in consequence of an

improper alliance in 1442, by Zurich, with the House of Austria.]—Id.

5. It is an essential object of the league to preserve interior tranquillity by the reciprocal protection of the form of Government established in each Canton, so that each is armed with the force of the whole corps for the suppression of rebellions and revolts, and the history of Switzerland affords frequent instances of mutual succors for these purposes.—Diet<sup>e</sup> de Suisse.

6. The Cantons are bound not to give shelter to fugitives from Justice, in consequence of which each Canton can at this day banish malefactors from all the territories of the League.—Id.

7. Though each Canton may prohibit the exportation and importation of merchandise, it must allow it to pass through from one neighboring Canton to another without any augmentation of the tolls.—Code de l'Hum.

8. In claiming succours against foreign powers, the 8 Elder Cantons have a more extensive right than the 5 junior ones. The former may demand them of one another without explaining the motives of the quarrel. The latter cannot intermeddle but as mediators or auxiliaries; nor can they commence hostilities without the sanction of the Confederates; and if cited by their adversaries, cannot refuse to accept the other Cantons for arbiters or Judges.—Diet<sup>e</sup> de Suisse.

9. In general, each Canton is to pay its own forces, without compensation from the whole, or the succoured party. But in case a siege is to be formed for the benefit of a particular Canton, this is to defray the expence of it, and if for the common benefit, each is to pay its just proportion.—D'Albon. On no pretext is a Canton to be forced to march its troops out of the limits of Switzerland.—Stanyan.

10. Foreign Ministers from different Nations reside in different Cantons. Such of them as have letters of credence for the whole Confederacy address them to Zurich, the chief Canton. The Ambassador of France, who has most to do with the Confederacy, is complimented at his quarters by deputies from the whole body.

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solans!

Vices of the Constitution.

1. Disparity in size of Cantons.
2. Different principles of Government in different Cantons.
3. Intolerance in Religion.
4. Weakness of the Union. The common bailages, which served as a cement, sometimes become occasions of quarrels.—*Diet<sup>e</sup> de Suisse*.

In a treaty in 1683 with Victor Amadæus, of Savoy, it is stipulated that he shall interpose as mediator in disputes between the Cantons, and, if necessary, use force against the party refusing to submit to the sentence.—*Diet<sup>e</sup> de Suisse*. A striking proof of the want of authority in the whole over its parts.

*Belgic Confederacy.*

Established in 1679, by the Treaty called the Union of Utrecht.—*Code de l'Humanité*.

The provinces came into this Union slowly. Guelderland, the smallest of them, made many difficulties. Even some of the Cities and Towns pretended to annex conditions to their acceding.—*Id*.

When the Union was originally established, a committee, composed of deputies from each province, was appointed to regulate affairs, and to convoke the provinces according to article XIX of the Treaty. Out of this Committee grew the States General, (*Id.*) who, strictly speaking, are only the Representatives of the States General, who amount to 800 members.—*Temple*, p. 112.

The number of Deputies to the States General from each province not limited, but have only a single voice. They amount commonly, altogether, to 40 or 50. They hold their seats, some for life, some for 6, 3, and 1 years, and those of Groningen and Overysse during pleasure. They are paid, but very moderately, by their respective constituents, and are amenable to their Tribunals only.—*Code de l'Hum*. No military man is deputable to the States General.—*Id*.

Ambassadors of Republic have session and deliberation, but no suffrage in States Genl.—*Id*. The grand pensioner of Holland, as ordinary deputy from Holland, attends always in the

States General, and makes the propositions of that province to States General.—Id.

They sit constantly at the Hague since 1593, and every day in the week except Saturday and Sunday. The States of Holland, in granting this residence, reserve, by way of protestation, the rights, the honors, and prerogatives, belonging to them as sovereigns of the province, yielding the States General only a rank in certain public ceremonies.—Id.

The eldest deputy from each province presides for a week by turns. The President receives letters, &c., from the Ministers of the Republic at foreign Courts, and of foreign Ministers residing at the Hague, as well as of all petitions presented to the Assembly; all which he causes to be read by the Secretary.—Id.

The Secretary, besides correcting and recording the Resolutions, prepares and despatches instructions to Ministers abroad, and letters to foreign powers. He assists, also, at conferences held with foreign Ministers, *and there gives his voice*. He has a deputy when there is not a second Secretary. The agent of the States General is charged with the Archives, and is also employed on occasions of receiving foreign Ministers or sending Messages to them.—Id.

Federal Authority.

The avowed objects of the Treaty of Union: 1. To fortify the Union. 2. To repel the common enemy.—Id.

The Union is to be perpetual in the same manner as if the Confederates formed one province only, without prejudice, however, to the privileges and rights of each province and City.—Id.

Differences between provinces and between cities are to be settled by the ordinary Judges, by arbitration, by amicable agreement, without the interference of other provinces, otherwise than by way of accommodation. The Stadtholder is to decide such differences in the last resort.—Id.

No change to be made in the articles of Union without unanimous consent of the parties, and everything done contrary to them to be null and void.—Id.

States General.

1. Execute, without consulting their constituents, treaties and alliances already formed.—Id.

2. Take oaths from Generals and Governors, and appoint Field Deputies.

3. The collection of duties on imports and exports, and the expedition of safe conducts, are in their name and by their officers.—Id.

4. They superintend and examine accounts of the E. India Company.—Id.

5. Inspect the Mint, appoint les Maitres de la Monnoye, fix *la taille* and *la valeur* of the coin, having always regard to the regular rights of the provinces within their own Territories.—Id.

6. Appoint a Treasurer General and Receiver General of the Quotas furnished by the provinces.—Id.

7. Elect, out of a double nomination, the fiscal and other officers within the departments of the admiralties, except that the High officers of the fleet are appointed by the Admiral General, to whom the maritime provinces have ceded this right.—Id. The Navy, supported by duties on foreign trade, appropriated thereto by the maritime provinces, for the benefit of the whole Republic.—Id.

8. They govern as sovereigns the dependent territories, according to the several capitulations.—Id.

9. They form Committees of their own body, of a member from each deputation, for foreign affairs, finances, marine, and other matters. At all these conferences the Grand Pensioner of Holland and the secretary of the States General attend, and have a deciding voice.—Id.

10. Appoint and receive Ambassadors, negotiate with foreign powers, deliberate on war, peace, alliances, the raising forces, care of fortifications, military affairs *to a certain degree*, the equipment of fleets, building of ships, directions concerning money.—Id. But they can neither make peace, nor war, nor truces, nor treaties, nor raise troops, nor impose taxes, nor do other acts requiring unanimity, without consulting and obtaining the sanction of the Provinces.—Id. Coining money also



requires unanimity and express sanction of provinces.—Temple. Repealing an old law on same footing.—Burrish. Batav. illustrata. In points not enumerated in this article, plurality of voices decides.—Code de l'Hum.

11. Composition and publication of edicts and proclamations relative both to the objects expressed in the articles of union and to the measures taken for the common good, are in the name of the States; and altho' they are addressed to the States of the Provinces, who announce them with their sanction, still it is in the name of the States General that obedience is required of all the inhabitants of the Provinces.—Code de l'Hum.

The Provinces have reserved to themselves—

1. Their sovereignty within their own limits in general.—Code de l'Hum.

2. The right of coining money, as essential to sovereignty; but agreed, at the same time, that the money which should be current throughout the Republic should have the same intrinsic value. To give effect to which regulation a mint is established at the Hague, under a chamber which has the inspection of all money struck, either in name of States General or particular provinces, as also of foreign coin.—Id. Coining money not in provinces or cities, but in the generality of union, by common agreement.—Temple.

3. Every province raises what money and by what means it pleases, and sends its quota to Receiver General.—Temple.

The quotas were not settled without great difficulty.—Id.

4. The naming to Governments of Towns within themselves; keeping keys, and giving word to Magistrates; a power over troops in all things not military; conferring Col<sup>ls</sup>. commissions and inferior posts in such Regiments as are paid by the provinces; respectively taking oath of fidelity; concerning a revocation of all which the States General are not permitted to deliberate.—Id.

The provinces are restricted—

1. From entering into any foreign treaties without consent of the rest.—Code de l'Hum.

2. From establishing imposts prejudicial to others without general consent.—Id.

3. From charging their neighbors with higher duties than their own subjects.—Id.

Council of State composed of deputies from the provinces, in different proportions. 3 of them are for life; the rest generally for 3 years; they vote per capita.—Temple.

They are subordinate to the States General, who frequently, however, consult with them. In matters of war which require secrecy they act of themselves. Military and fiscal matters are the objects of their administration.

They execute the Resolutions of the States General, propose requisitions of men and money, and superintend the fortifications, &c., and the affairs, revenues, and Governments, of the conquered possessions.—Temple.

Chamber of Accounts was erected for the ease of the Council of State. It is subordinate to the States General; is composed of two deputies from each province, who are changed triennially. They examine and state all accounts of the several Receivers; controul and register orders of Council of State disposing of the finances.—Id.

College of Admiralty, established by the States General, 1597, is subdivided into five, of which three are in Holland, one in Zealand, one in Friezland, each composed of seven deputies, four appointed by the province where the admiralty resides, and three by the other provinces. The vice admiral presides in all of them when he is present.—Temple.

They take final cognizance of all crimes and prizes at sea; ——— of all frauds in customs; provide quota of fleets resolved on by States General; appoint Captains and superior officers of each squadron; take final cognizance, also, of civil matters within 600 florins, an appeal lying to States General for matters beyond that sum.—Code de l'Hum. and Temple.

The authority of States General in Admiralty Department is much limited by the influence and privileges of maritime prov-

inces, and the jurisdiction herein is full of confusion and contradiction.—Code de l'Humanité.

Stadtholder, who is now hereditary, in his *political* capacity is authorized—

1. To settle differences between provinces, provisionally, till other methods can be agreed on, which having never been, this prerogative may be deemed a permanent one.—Code de l'Hum.

2. Assists at deliberations of States General and their particular conferences; recommends and influences appointment of Ambassadors.—Id.

3. Has seat and suffrage in Council of State.—Id.

4. Presiding in the provincial Courts of Justice, where his name is prefixed to all public acts.—Id.

5. Supreme Creator of most of the Universities.—Id.

6. As Stadtholder of the provinces, has considerable rights partaking of the sovereignty; as appointing town magistrates, on presentation made to him of a certain number. Executing provincial decrees, &c.—Id. and Mably; Etud. de l'hist.

7. Gives audiences to Ambassadors, and may have agents with their Sovereigns for his private affairs.—Mab. Ibid.

8. Exercises power of pardon.—Temple.

In his *Military* capacity as Captain General—

1. Commands forces; directs marches; provides for garri- sons; and, in general, regulates military affairs.—Code de l'Hum.

2. Disposes of all appointments, from Ensigns to Col<sup>s</sup>. The Council of State having surrendered to him the appointments within their disposal, (Id.) and the States General appoint the higher grades on his recommendation.—Id.

3. Disposes of the Governments, &c., of the fortified towns, tho' the commissions issue from the States General.—Id.

In his *Marine* capacity as Admiral General—

1. Superintends and directs everything relative to naval forces and other affairs within Admiralty.—Id.

2. Presides in the admiralties in person or by proxy.—Id.

3. Appoints Lieu<sup>t</sup>. Admirals and officers under them.—Id.

4. Establishes Councils of war, whose sentences are in the

name of the States General and his Highness, and are not executed till he approves.—Id.

The Stadtholder has a general and secret influence on the great machine which cannot be defined.—Id.

His revenue from appointments amounts to 300,000 florins, to which is to be added his extensive patrimonies.—Id.

The standing army of the Republic, 40,000 men.

Vices of the Constitution.

The Union of Utrecht imports an authority in the States General seemingly sufficient to secure harmony; but the jealousy in each province of its sovereignty renders the practice very different from the Theory.—Code de l'Union.

It is clear that the delay occasioned by recurring to seven independent provinces, including about 52 voting Cities, &c., is a vice in the Belgic Republic which exposes it to the most fatal inconveniences. Accordingly, the fathers of their country have endeavored to remedy it, in the extraordinary assemblies of the States General in 1584, in 1651, 1716, 1717, but, unhappily, without effect. This vice is, notwithstanding, deplorable.—Id. Among other evils, it gives foreign Ministers the means of arresting the most important deliberations by gaining a single Province or City. This was done by France in 1726, when the Treaty of Hanover was delayed a whole year. In 1688 the States concluded a Treaty of themselves, but at the risk of their heads.—Id. It is the practice, also, in matters of contribution or subsidy, to pass over this article of the Union; for where delay would be dangerous, the consenting provinces furnish their quotas without waiting for the others; but by such means the Union is weakened, and, if often repeated, must be dissolved.—Id.

Foreign Ministers elude matters taken ad referendum, by tampering with the Provinces and Cities.—Temple, p. 116.

Treaty of Union obliges each Province to levy certain contributions. But this article never could and probably never will be executed, because the inland provinces, who have little commerce, cannot pay an equal Quota.—Barrish. Bat. illustrat.

Deputations from agreeing to disagreeing Provinces frequent.—Tem.

It is certain that so many independent corps and interests could not be kept together without such a center of union as the Stadtholdership, as has been allowed and repeated in so many solemn acts.—Code de l'Hum.

In the intermission of the Stadtholdership, Holland, by her riches and authority, which drew the others into a sort of dependence, supplied the place.—Temple.

With such a Government the Union never could have subsisted, if, in effect, the provinces had not within themselves a spring capable of quickening their tardiness and impelling them to the same way of thinking. This spring is the Stadtholder. His prerogatives are immense—1, &c., &c. A strange effect of human contradictions. Men too jealous to confide their liberty to their representatives, who are their equals, abandoned it to a Prince, who might the more easily abuse it, as the affairs of the Republic were important, and had not then fixed themselves.—Mably Etude D'Hist., 205—6.

Grotius has said that the hatred of his countrymen against the House of Austria kept them from being destroyed by the vices of their Constitution.—Ibid.

The difficulty of procuring unanimity has produced a breach of fundamentals in several instances. Treaty of Westphalia was concluded without consent of Zealand, &c.—D'Albon and Temple. These tend to alter the constitution.—D'Albon.

It appears by several articles of the Union that the confederates had formed the design of establishing a General tax, [Impôt,] to be administered by the States Gen<sup>l</sup>. But this design, so proper for bracing this happy Union, has not been executed.—Code de l'Hum.

*Germanic Confederacy* took its present form in the year —.—Code de l'Hum.

The *Diet* is to be convoked by the Emperor, or, on his failure, by the Archbishop of Mentz, with consent of Electors, once in ten years at least from the last adjournment, and six months

before the time of meeting. Ratisbon is the seat of the Diet since 1663.

The members amount to 285, and compose three colleges, to wit: that of the Electors, of Princes, of Imperial Cities. The voices amount to 159, of which 153 are individual and 6 collective. The latter are particular to the College of Princes, and are formed out of 39 prelates, &c., and 93 Counts, &c. The individual voices are common to the three Colleges, and are given by 9 Electors; 94 Princes, 33 of the ecclesiastical and 61 of the secular Bench; and 50 Imperial Cities, 13 of the Rhenish, and 37 of the Suabian Bench. The King of Prussia has nine voices, in as many different capacities.—Id.

The three Colleges assemble in the same House, but in different apartments.—Id.

The Emperor, as head of the Germanic body, is President of the Diet. He and others are represented by proxies at present.—Id.

The deliberations are grounded on propositions from Emperor, and commence in the College of Electors, from whence they pass to that of the Princes, and thence to that of the Imperial Cities. They are not resolutions till they have been passed in each. When the Electors and Princes cannot agree, they confer; but do not confer with the Imperial Cities. Plurality of voices decide in each College, except in matters of Religion and a few reserved cases, in which, according to the Treaty of Westphalia and the Imperial Capitulations, the Empire is divided into the Catholic and Evangelic Corps.—Id.

After the Resolutions have passed the three Colleges they are presented to the Representative of the Emperor, without whose ratification they are null.—Id. They are called *placita* after passing the three Colleges; *conclusa*, after ratification by Emperor.—Id.

The collection of acts of one Diet is called the *Recess*, which cannot be made up and have the force of law till the close of the Diet. The subsisting diet has not been closed for more than a hundred years; of course it has furnished no effective Resolu-

tion, though a great number of interesting ones have passed. This delay proceeds from the Imperial Court, who refuse to grant a recess, notwithstanding the frequent and pressing applications made for one.—Id.

#### Federal Authority.

The powers as well as the organization of the Diet have varied at different times. Antiently it elected as a corps the Emperors, and judged of their conduct. The Golden Bull gives this right to the Electors alone. Antiently it regulated tolls; at present the Electors alone do this.—Id.

The Treaty of Westphalia and the capitulations of the Emperors, from Charles V downwards, define the present powers of the Diet. These concern—1. Legislation of the Empire. 2. War and peace, and alliances. 3. Raising troops. 4. Contributions. 5. Construction of fortresses. 6. Money. 7. Ban of the Empire. 8. Admission of new princes. 9. The Supreme tribunals. 10. Disposition of grand fiefs and grand charges. In all these points the Emperor and Diet must concur.—Id.

The Ban of the Empire is a sort of proscription, by which the disturbers of the public peace are punished. The offender's life and goods are at the mercy of every one; formerly, the Emperors themselves pronounced the ban against those who offended them. It has been since regulated that no one shall be exposed to the ban without the examination and consent of the Diet.—Encyclop.

By the Ban the party is outlawed, degraded from all his federal rights, his subjects absolved from their allegiance, and his possessions forfeited.—Code de l'Hum.

The Ban is incurred when the Emperor or one of the supreme Tribunals address an order to any one, on pain, in case of disobedience, of being proscribed *ipso facto*.—Id.

The Circles, formerly, were in number six only. There are now ten. They were instituted for the more effectual preservation of the public peace, and the execution of decrees of Diet and supreme Tribunals against contumacious members, for which purposes they have their particular diets, with the chief Prince of the circle at their head, have particular officers for command-

ing the forces of the Circle, levy contributions, see that justice is duly administered, that the coin is not debased, that the customs are not unduly raised.—Savage, vol. 2, p. 35.

If a circle fail to send its due succours, it is to pay damages suffered therefrom to its neighbours. If a member of the circle refuse, the Col. of the circle is to admonish; and if this be insufficient, the delinquent party is to be compelled under a sentence from the Imperial Chamber.—Id.

Imperial Chamber, established in 1495 by the Diet, as a means of public peace, by deciding controversies between members of the Empire.—Code de l'Emp.

This is the first Tribunal of the Empire. It has an appellate jurisdiction in all Civil and fiscal causes, or where the public peace may be concerned. It has a concurrent jurisdiction with the Aulic Council, and causes cannot be removed from one to the other.—Id.

The Judges of this Tribunal are appointed partly by the Emperor, partly by Electors, partly by circles; are supported by all the States of the Empire, excepting the Emperor. They are badly paid, though great salaries are annexed to their offices.—Id.

In every action, real or personal, The Diet, Imperial Chamber, and Aulic Council, are so many supreme Courts, to which none of the States can demur. The jurisprudence by which they govern themselves are, according to the subject-matter: 1. The provincial laws of Germany. 2. The Scripture. 3. The law of nature. 4. Law of Nations. 5. The Roman law. 6. The canon law. 7. The feodal law of the Lombards.—Id.

Members of Diet, as such, are subject in all public affairs to be judged by Emperor and Diet; as individuals in private capacity, are subject to Aulic Council and Imperial Chamber.—Id.

The members have reserved to themselves the right—1. To enter into war and peace with foreign powers. 2. To enter into alliances with foreign powers and with one another, not prejudicial to their engagements to the Empire.—Code de l'Emp. 3. To make laws, levy taxes, raise troops, to determine on life and death.—Savage. 4. Coin money.—Id. 5.



Exert territorial sovereignty within their limits in their own name.—Code de l'Hum. 6. To grant pardons.—Savage, p. 44. 7. To furnish their quotas of troops, equipped, mounted, and armed, and to provide for sustenance of them, as if they served at home.—Code de l'Hum.

*Aulic* Council, [established by Diet in 1512.—Encyclop.,] composed of members appointed by the Emperor.—Code de l'Hum.

Its cognizance is restrained to matters above 2,000 crowns; is concurrent with the jurisdiction of the Imperial Chamber in controversies between the States; also, in those of subjects of the Empire by way of appeal from subaltern Tribunals of the Empire, and from sovereign Tribunals of Princes.—Id. Arms are to be used for carrying its decrees into execution, as was done in 1718 by the troops of the Circle of upper Rhine, in a controversy between Landgrave of Hesse Cassel and Prince of Hesse of Rhinfitz.—Id.

Members of Empire restricted—

1. From entering into Confederacies prejudicial to the Empire.

2. From laying tolls or customs upon bridges, rivers, or passages, to which strangers are subject, without consent of the Emperor in full diet.

3. Cannot give any other value to money, nor make any other kind of money, than what is allowed by the Empire.—Savage, vol. 2, p. 45.

4. (By edict of 1548, particularly,) from taking arms one against another; from doing themselves justice; from affording retreat, much more assistance, to infractors of the public peace; the ban of the Empire being denounced against the transgressors of these prohibitions, besides a fine of 2,000 marks of Gold and loss of regalities.—Code d'Hum.

Emperor has the prerogative—1. Of exclusively making propositions to the Diet. 2. Presiding in all Assemblies and Tribunals of the Empire when he chooses. 3. Of giving suffrage in all affairs treated in the Diet. 4. Of negating their resolutions. 5. Of issuing them in his own name. 6. Of watch-

ing over the safety of the Empire. 7. Of naming Ambassadors to negotiate within the Empire, as well as at foreign Courts, affairs concerning the Germanic Corps. 8. Of re-establishing in good fame persons dishonored by Council of war and civil Tribunals.—Code d'Hum. 9. Of giving investiture of the principal immediate fiefs of the Empire; which is not, indeed, of much consequence. 10. Of conferring vacant electorates. 11. Of preventing subjects from being withdrawn from the jurisdiction of their proper judge. 12. Of conferring charges of the Empire. 13. Of conferring dignities and titles, as of Kings, &c. 14. Of instituting military orders. 15. Of granting the dernier resort. 16. Of judging differences and controversies touching tolls. 17. Of deciding contests between Catholic and Protestant States, touching precedence, &c.—Id. 18. Of founding Universities within the lands of the States, so far as to make the person endowed with Academic honors therein be regarded as such throughout Germany. 19. Of granting all sorts of privileges not injurious to the States of the Empire. 20. Of establishing great fairs. 21. Of receiving the droit des Postes generales. 22. Of striking money, but without augmenting or diminishing its value. 23. Of permitting strangers to enlist soldiers, conformably to Recess of 1654.—Id. 24. Of receiving and applying Revenues of Empire.—Savage, p. . He cannot make war or peace, nor laws, nor levy taxes, nor alter the denomination of money, nor weights or measures.—Savage, v. 2, p. 35. The Emperor, as such, does not properly possess any territory within the Empire, nor derive any revenue for his support.—Code de l'Hum.

#### Vices of the Constitution.

1. The Quotas are complained of, and supplied very irregularly and defectively.—Code de l'Hum. Provision is made by decree of diet for enforcing them, but it is a delicate matter to execute it against the powerful members.—Id.

2. The establishment of the Imperial Chamber has not been found an efficacious remedy against civil wars. It has committed faults. The Ressortissans have not always been docile.—Id.

3. Altho' the establishment of Imperial Chambers, &c., give a more regular form to the police of the fiefs, it is not to be supposed they are capable of giving a certain force to the laws and maintaining the peace of the Empire, if the House of Austria had not acquired power enough to maintain itself on the Imperial Throne, to make itself respected, and to give orders which it might be imprudent to despise, as the laws were therefore despised.—Mably *Etude de hist.*, p. 130.

[Jealousy of the Imperial authority seems to have been a great cement of the Confederacy.]

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TO JAMES MONROE.

NEW YORK, April 19th, 1787.

DEAR SIR,—No definitive steps are yet taken for the transportation of your furniture. I fear we shall be obliged to make use of a conveyance to Norfolk as soon as one shall offer. I have examined the workmanship of the man in Chappel street. The face of it is certainly superior to that of your workman. Whether it may prove much so for substantial purposes, I do not undertake to say. Should Mrs. Monroe not be pleased with the articles, I would recommend that you dispose of them, which may be done, probably, without loss, and send us a commission to replace them. I think we could please you both, and on terms not dearer than that of your purchase. We learn nothing yet of a remittance from S. Carolina.

The business of the Mississippi will, I think, come to a point in a few days. You shall know the result in due time.

A motion was lately made to remove shortly to Philadelphia; six States would have been for it. Rhode Island was so at first, and would have been a seventh. One of the delegation was overpowered by exertions of his Eastern brethren. I need not rehearse to you the considerations which operated on both sides. Your conjectures will not mistake them. My own opinion is, that there are strong objections against the moment, [movement?] objections which nothing would supersede but the diffi-

culty of bringing the sense of the Union to an efficient vote in Congress, and the danger of losing altogether a proper measure by waiting for a proper time. A middle way would have been my choice; that is, to fix Philadelphia for the meeting of the ensuing Congress, and to remain here in the mean time. This would have given time for all preliminary arrangements, would have steered clear of the Convention, and, by selecting a natural period for the event, and transferring the operation of it to our successors in office, all insinuations of suddenness, and of personal views, would have been repelled.

I hear with great pleasure that you are to aid the deliberations of the next Assembly, and with much concern that paper money will probably be among the bad measures which you will have to battle. Wishing you success in this and all your other labours for the public and for yourself, I remain, with best respects to Mrs. Monroe,

Yours affectionately.

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TO EDMUND PENDLETON.

NEW YORK, April 22nd, 1787.

MY DEAR SIR,—The period since my last has afforded such scanty materials for a letter, that I have postponed it till I have now to thank you for yours of the 7th instant, which came to hand two days ago. I always feel pleasure in hearing from you, but particularly when my concern for your doubtful health is relieved by such an evidence in its favor. At the same time, I must repeat my wishes to forego this pleasure whenever it may interfere with the attention which you owe to your ease, your business, or your other friends.

I do not learn that any symptoms yet appear of a return of the insurgent spirit in Massachusetts. On the contrary, it is said that the malcontents are trying their strength in a more regular form. This is the crisis of their elections; and if they can muster sufficient numbers, their wicked measures are to be

sheltered under the forms of the Constitution. How far their influence may predominate in the current appointments is uncertain; but it is pretty certain that a great change in the rulers of that State is taking place, and that a paper emission, if nothing worse, is strongly apprehended. Governor Bowdoin is already displaced in favor of Mr. Hancock, whose acknowledged merits are not a little tainted by an obsequiousness to popular follies. A great change has also taken place in the Senate, and a still greater is prognosticated in the other branch of the Legislature.

We are flattered with the prospect of a pretty full and very respectable meeting in next month. All the States have made appointments, except Connecticut, Maryland, and Rhode Island. The last has refused. Maryland will certainly concur. The temper of Connecticut is equivocal. The turn of her elections, which are now going on, is said to be rather unpropitious. The absence of one or two States, however, will not materially affect the deliberations of the Convention. Disagreement in opinion among the present is much more likely to embarrass us. The nearer the crisis approaches, the more I tremble for the issue. The necessity of gaining the concurrence of the Convention in some system that will answer the purpose, the subsequent approbation of Congress, and the final sanction of the States, present a series of chances which would inspire despair in any case where the alternative was less formidable. The difficulty, too, is not a little increased by the necessity which will be produced, by encroachments on the State Constitutions, of obtaining not merely the assent of the Legislatures, but the ratification of the people themselves. Indeed, if such encroachments could be avoided, a higher sanction than the Legislative authority would be necessary to render the laws of the Confederacy paramount to the acts of its members.

I inclose a late act of Congress, which will shew you the light in which they view and inculcate a compliance with the Treaty of peace. We were not unaware of the bitterness of the pill to many of our countrymen, but national considerations overruled that objection. An investigation of the subject had proved that

the violations on our part were not only most numerous and important, but were of earliest date. And the assurances on the other part are explicit, that a reparation of our wrongful measures shall be followed by an immediate and faithful execution of the Treaty by Great Britain.

Congress are at present deliberating on the most proper plan for disposing of the Western lands, and providing a criminal and civil administration for the Western settlements beyond the Ohio. The latter subject involves great difficulties. On the former, also, opinions are various. Between 6 and 700,000 acres have been surveyed in Townships, and are to be sold as soon as they shall be duly advertised. The sale was at first to have been distributed throughout the States. This plan is now exchanged for the opposite extreme. The sale is to be made where Congress sit. Unquestionably, reference ought to have been had, in fixing on the place, either to the center of the Union or to the proximity of the premises. In providing for the unsurveyed lands, the difficulty arises from the Eastern attachment to townships, and the Southern, to indiscriminate locations. A copper coinage was agreed on yesterday, to the amount of upwards of two hundred thousand dollars; 15 per cent. is to be drawn into the federal Treasury from this operation.

Our affair with Spain is on a very delicate footing. It is not easy to say what precise steps would be most proper to be taken on our side, and extremely difficult to say what will be actually taken. Many circumstances threaten an Indian war, but the certainty of it is not established. A British officer was lately here from Canada, as has been propagated, but not on a mission to Congress. His business was unknown, if he had any that was important.

I am extremely concerned, though not much surprised, at the danger of a paper emission in Virginia. If Mr. Henry should erect the standard, he will certainly be joined by sufficient force to accomplish it. Remorse and shame are but too feeble restraints on interested individuals against unjust measures, and are rarely felt at all by interested multitudes.

## TO THOMAS JEFFERSON.

April 23d. 1787.

DEAR SIR,—The vigorous measures finally pursued by the Government of Massachusetts against the insurgents had the intended effect of dispersing them. By some it was feared that they would re-embody on the return of favorable weather. As yet, no symptom of such a design has appeared. It would seem that they mean to try their strength in another way; that is, by endeavoring to give the elections such a turn as may promote their views under the auspices of Constitutional forms. How far they may succeed is not yet reducible to certainty. That a great change will be effected in the component members of the Government is certain, but the degree of influence imputable to the malcontents cannot be well known till some specimen shall be given of the temper of the new rulers. A great proportion of the Senate is changed, and a greater proportion of the other branch it is expected will be changed. A paper emission, at least, is apprehended from this revolution in their councils.

Considerable changes are taking place, I hear, in the County elections in Virginia, and a strong itch beginning to return for paper money. Mr. Henry is said to have the measure in contemplation, and to be laying his train for it already. He will, however, be powerfully opposed by Col. Mason, if he should be elected and be able to serve; by Monroe, Marshall, and Ludwell Lee, (son of R. H. Lee,) who are already elected; and sundry others of inferior rank. Mr. Harrison, the late Governor, has so far regained the favor of Charles City as to be re-instated a representative. The part which he will take is uncertain. From his repeated declarations he ought to be adverse to a paper emission.

*Notes on the Confederacy.—April, 1787.*

Vices of the Political  
system of the U. States.

1. Failure of the States  
to comply with the Con-  
stitutional requisitions.

independent authority of the States, and has been so uniformly exemplified in every similar Confederacy, that it may be considered as not less radically and permanently inherent in, than it is fatal to the object of, the present system.

2. Encroachments by  
the States on the federal  
authority.

shall present a temptation. Among these examples are the wars and treaties of Georgia with the Indians, the unlicensed compacts between Virginia and Maryland, and between Pennsylvania and New Jersey, the troops raised and to be kept up by Massachusetts.

3. Violations of the  
law of nations and of  
treaties.

under which their legislative business is carried on, irregularities of this kind must frequently happen. Accordingly, not a year has passed without instances of them in some one or other of the States. The Treaty of Peace, the treaty with France, the treaty with Holland, have each been violated. [See the complaints to Congress on these subjects.] The causes of these irregularities must necessarily produce frequent violations of the law of nations in other respects.

As yet, foreign powers have not been rigorous in animadverting on us. This moderation, however, cannot be mistaken for a permanent partiality to our faults, or a permanent security against those disputes with other nations, which, being among the greatest of public calamities, it ought to be least in the power of any part of the community to bring on the whole.

Observations by J. M.

1. This evil has been so fully experienced both during the war and since the peace, results so naturally from the number and

2. Examples of this are numerous, and repetitions may be foreseen in almost every case where any favorite object of a State

3. From the number of Legislatures, the sphere of life from which most of their members are taken, and the circumstances



4. Trespasses of the States on the rights of each other.

4. These are alarming symptoms, and may be daily apprehended, as we are admonished by daily experience. See the law of Virginia restricting foreign vessels to certain ports; of Maryland in favor of vessels belonging to her *own citizens*; of N. York in favor of the same.

Paper money, instalments of debts, occlusion of courts, making property a legal tender, may likewise be deemed aggressions on the rights of other States. As the citizens of every State, aggregately taken, stand more or less in the relation of creditors or debtors to the citizens of every other State, acts of the debtor State in favor of debtors affect the creditor State in the same manner as they do its own citizens, who are, relatively, creditors towards other citizens. This remark may be extended to foreign nations. If the exclusive regulation of the value and alloy of coin was properly delegated to the federal authority, the policy of it equally requires a controul on the States in the cases above mentioned. It must have been meant—1. To preserve uniformity in the circulating medium throughout the nation. 2. To prevent those frauds on the citizens of other States, and the subjects of foreign powers, which might disturb the tranquillity at home, or involve the union in foreign contests.

The practice of many States in restricting the commercial intercourse with other States, and putting their productions and manufactures on the same footing with those of foreign nations, though not contrary to the federal articles, is certainly adverse to the spirit of the Union, and tends to beget retaliating regulations, not less expensive and vexatious in themselves than they are destructive of the general harmony.

5. Want of concert in matters where common interest requires it.

5. This defect is strongly illustrated in the state of our commercial affairs. How much has the national dignity, interest, and revenue, suffered from this cause? Instances of inferior moment are the want of uniformity in the laws concerning naturalization and literary property; of provision for national seminaries; for grants of incorporation for national purposes,

for canals, and other works of general utility; which may at present be defeated by the perverseness of particular States whose concurrence is necessary.

6. Want of Guaranty to the States of their Constitutions and laws against internal violence.

6. The Confederation is silent on this point, and therefore by the second article the hands of the federal authority are tied.

According to Republican Theory, Right and power, being both vested in the majority, are held to be synonymous. According to fact and experience, a minority may, in an appeal to force, be an overmatch for the majority: 1. If the minority happen to include all such as possess the skill and habits of military life, and such as possess the great pecuniary resources, one-third only may conquer the remaining two-thirds. 2. One-third of those who participate in the choice of the rulers may be rendered a majority by the accession of those whose poverty excludes them from a right of suffrage, and who, for obvious reasons, will be more likely to join the standard of sedition than that of the established Government. 3. Where slavery exists, the republican Theory becomes still more fallacious.

7. Want of sanction to the laws, and of coercion in the Government of the Confederacy.

7. A sanction is essential to the idea of law, as coercion is to that of Government. The federal system being destitute of both, wants the great vital principles of a Political Constitution.

Under the form of such a Constitution, it is in fact nothing more than a treaty of amity, of commerce, and of alliance, between independent and Sovereign States. From what cause could so fatal an omission have happened in the articles of Confederation? From a mistaken confidence that the justice, the good faith, the honor, the sound policy of the several legislative assemblies would render superfluous any appeal to the ordinary motives by which the laws secure the obedience of individuals; a confidence which does honor to the enthusiastic virtue of the compilers, as much as the inexperience of the crisis apologizes for their errors. The time which has since elapsed has had the double effect of increasing the light and tempering the warmth with which the arduous work may

be revised. It is no longer doubted that a unanimous and punctual obedience of 13 independent bodies to the acts of the federal Government ought not to be calculated on. Even during the war, when external danger supplied in some degree the defect of legal and coercive sanctions, how imperfectly did the States fulfil their obligations to the Union? In time of peace we see already what is to be expected. How, indeed, could it be otherwise? In the first place, every general act of the Union must necessarily bear unequally hard on some particular member or members of it; secondly, the partiality of the members to their own interests and rights, a partiality which will be fostered by the courtiers of popularity, will naturally exaggerate the inequality where it exists, and even suspect it where it has no existence; thirdly, a distrust of the voluntary compliance of each other may prevent the compliance of any, although it should be the latent disposition of all. Here are causes and pretexts which will never fail to render federal measures abortive. If the laws of the States were merely recommendatory to their citizens, or if they were to be rejudged by county authorities, what security, what probability would exist that they would be carried into execution? Is the security or probability greater in favor of the acts of Congress, which, depending for their execution on the will of the State legislatures, are, tho' nominally authoritative, in fact recommendatory only?

8. Want of ratification by the people of the articles of Confederation.

8. In some of the States the Confederation is recognized by and forms a part of the Constitution. In others, however, it has received no other sanction than that of the legislative authority. From this defect two evils result: 1. Whenever a law of a State happens to be repugnant to an act of Congress, particularly when the latter is of posterior date to the former, it will be at least questionable whether the latter must not prevail; and as the question must be decided by the Tribunals of the State, they will be most likely to lean on the side of the State.

2. As far as the union of the States is to be regarded as a league of sovereign powers, and not as a political Constitution,

by virtue of which they are become one sovereign power, so far it seems to follow, from the doctrine of compacts, that a breach of any of the articles of the Confederation by any of the parties to it absolves the other parties from their respective obligations, and gives them a right, if they choose to exert it, of dissolving the Union altogether.

9. Multiplicity of laws  
in the several States.

9. In developing the evils which viciate the political system of the United States, it is proper to include those which are found within the States individually, as well as those which directly affect the States collectively, since the former class have an indirect influence on the general malady, and must not be overlooked in forming a compleat remedy. Among the evils, then, of our situation, may well be ranked the multiplicity of laws, from which no State is exempt. As far as laws are necessary to mark with precision the duties of those who are to obey them, and to take from those who are to administer them a discretion which might be abused, their number is the price of liberty. As far as laws exceed this limit they are a nuisance; a nuisance of the most pestilent kind. Try the Codes of the several States by this test, and what a luxurianey of legislation do they present. The short period of independency has filled as many pages as the century which preceded it. Every year, almost every session, adds a new volume. This may be the effect in part, but it can only be in part, of the situation in which the revolution has placed us. A review of the several Codes will shew that every necessary and useful part of the least voluminous of them might be compressed into one-tenth of the compass, and at the same time be rendered ten-fold as perspicuous.

10. Mutability of the  
laws of the States.

10. This evil is intimately connected with the former, yet deserves a distinct notice, as it emphatically denotes a vicious legislation. We daily see laws repealed or superseded before any trial can have been made of their merits, and even before a knowledge of them can have reached the remoter districts within which they were to operate. In the regulations of trade, this instability becomes a snare not only to our citizens, but to foreigners also.

11. Injustice of the laws of the States.

11. If the multiplicity and mutability of laws prove a want of wisdom, their injustice betrays a defect still more alarming; more alarming, not merely because it is a greater evil in itself, but because it brings more into question the fundamental principle of republican Government, that the majority who rule in such Governments are the safest guardians both of public good and of private rights. To what causes is this evil to be ascribed?

These causes lie—1. In the representative bodies. 2. In the people themselves.

1. Representative appointments are sought from 3 motives: 1. Ambition. 2. Personal interest. 3. Public good. Unhappily, the two first are proved by experience to be most prevalent. Hence, the candidates who feel them, particularly the second, are most industrious and most successful in pursuing their object; and forming often a majority in the legislative Councils, with interested views, contrary to the interest and views of their constituents, join in a perfidious sacrifice of the latter to the former. A succeeding election, it might be supposed, would displace the offenders, and repair the mischief. But how easily are base and selfish measures masked by pretexts of public good and apparent expediency? How frequently will a repetition of the same arts and industry which succeeded in the first instance again prevail on the unwary to misplace their confidence?

How frequently, too, will the honest but unenlightened representative be the dupe of a favorite leader, veiling his selfish views under the professions of public good, and varnishing his sophistical arguments with the glowing colours of popular eloquence?

2. A still more fatal, if not more frequent cause, lies among the people themselves. All civilized societies are divided into different interests and factions, as they happen to be creditors or debtors, rich or poor, husbandmen, merchants, or manufacturers, members of different religious sects, followers of different political leaders, inhabitants of different districts, owners of different kinds of property, &c., &c. In republican Govern-

ment, the majority, however composed, ultimately give the law. Whenever, therefore, an apparent interest or common passion unites a majority, what is to restrain them from unjust violations of the rights and interests of the minority, or of individuals? Three motives only: 1. A prudent regard to their own good, as involved in the general and permanent good of the community. This consideration, although of decisive weight in itself, is found by experience to be too often unheeded. It is too often forgotten, by nations as well as by individuals, that honesty is the best policy. 2<sup>ndly</sup>. Respect for character. However strong this motive may be in individuals, it is considered as very insufficient to restrain them from injustice. In a multitude its efficacy is diminished in proportion to the number which is to share the praise or the blame. Besides, as it has reference to public opinion, which, within a particular society, is the opinion of the majority, the standard is fixed by those whose conduct is to be measured by it. The public opinion without the society will be little respected by the people at large of any Country. Individuals of extended views and of national pride may bring the public proceedings to this standard, but the example will never be followed by the multitude. Is it to be imagined that an ordinary citizen or even Assemblyman of R. Island, in estimating the policy of paper money, ever considered or cared in what light the measure would be viewed in France or Holland, or even in Massachusetts or Connecticut? It was a sufficient temptation to both that it was for their interest; it was a sufficient sanction to the latter that it was popular in the State; to the former, that it was so in the neighbourhood. 3<sup>rdly</sup>. Will Religion, the only remaining motive, be a sufficient restraint? It is not pretended to be such, on men individually considered. Will its effect be greater on them considered in an aggregate view? Quite the reverse. The conduct of every popular assembly acting on oath, the strongest of religious ties, proves that individuals join without remorse in acts against which their consciences would revolt if proposed to them under the like sanction, separately, in their closets. When, indeed, Religion is kindled into enthusiasm,

its force, like that of other passions, is increased by the sympathy of a multitude. But enthusiasm is only a temporary state of religion, and, while it lasts, will hardly be seen with pleasure at the helm of Government. Besides, as religion in its coolest state is not infallible, it may become a motive to oppression as well as a restraint from injustice. Place three individuals in a situation wherein the interest of each depends on the voice of the others, and give to two of them an interest opposed to the rights of the third. Will the latter be secure? The prudence of every man would shun the danger. The rules and forms of justice suppose and guard against it. Will two thousand in a like situation be less likely to encroach on the rights of one thousand? The contrary is witnessed by the notorious factions and oppressions which take place in corporate towns, limited as the opportunities are, and in little republics, when uncontrouled by apprehensions of external danger. If an enlargement of the sphere is found to lessen the insecurity of private rights, it is not because the impulse of a common interest or passion is less predominant in this case with the majority, but because a common interest or passion is less apt to be felt, and the requisite combinations less easy to be formed, by a great than by a small number. The society becomes broken into a greater variety of interests and pursuits of passions, which check each other, whilst those who may feel a common sentiment have less opportunity of communication and concert. It may be inferred that the inconveniences of popular States, contrary to the prevailing Theory, are in proportion not to the extent, but to the narrowness of their limits.

The great desideratum in Government is such a modification of the sovereignty as will render it sufficiently neutral between the different interests and factions to controul one part of the society from invading the rights of another, and, at the same time, sufficiently controuled itself from setting up an interest adverse to that of the whole society. In absolute Monarchies the prince is sufficiently neutral towards his subjects, but frequently sacrifices their happiness to his ambition or his avarice. In small Republics, the sovereign will is sufficiently controuled

from such a sacrifice of the entire Society, but is not sufficiently neutral towards the parts composing it. As a limited monarchy tempers the evils of an absolute one, so an extensive Republic meliorates the administration of a small Republic.

An auxiliary desideratum for the melioration of the Republican form is such a process of elections as will most certainly extract from the mass of the society the purest and noblest characters which it contains; such as will at once feel most strongly the proper motives to pursue the end of their appointment, and be most capable to devise the proper means of attaining it.

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TO THOMAS JEFFERSON.

PHILADELPHIA, May 15, 1787.

DEAR SIR,—Monday last was the day for the meeting of the Convention. The number as yet assembled is but small. Among the few is General Washington, who arrived on Sunday evening, amidst the acclamations of the people, as well as more sober marks of the affection and veneration which continues to be felt for his character. The Governor, Messrs. Wythe and Blair, and Doctor McClurg, are also here. Col. Mason is to be here in a day or two. There is a prospect of a pretty full meeting on the whole, though there is less punctuality in the outset than was to be wished. Of this the late bad weather has been the principal cause. I mention these circumstances because it is possible this may reach you before you hear from me through any other channel, and I add no others because it is merely possible.

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TO HON<sup>BLE</sup> EDMUND PENDLETON.

PHILADELPHIA, May 27, 1787.

DEAR SIR,—I have put off, from day to day, writing to my friends from this place, in hopes of being able to say something of the Convention. Contrary to every previous calculation, the



bare quorum of seven States was not made up till the day before yesterday. The States composing it are New York, New Jersey, Pennsylvania, Delaware, Virginia, North Carolina, and South Carolina. Individual members are here from Massachusetts, Maryland, and Georgia, and our intelligence promises a complete addition of the first and last, as also of Connecticut, by to-morrow. General Washington was called to the chair by a unanimous voice, and has accepted it. The secretary is a Major Jackson. This is all that has yet been done, except the appointment of a committee for preparing the rules by which the Convention is to be governed in their proceedings. A few days will now furnish some data for calculating the probable result of the meeting. In general, the members seem to accord in viewing our situation as peculiarly critical, and on being averse to temporizing expedients. I wish they may as readily agree when particulars are brought forward. Congress are reduced to five or six States, and are not likely to do anything during the term of the Convention.

A packet has lately arrived from France, but brings no news.

I learnt with great pleasure, by the Governor, that you continued to enjoy a comfortable degree of health, and heartily wish this may find it still further confirmed; being, with sincere affection and the highest esteem,

Your obed<sup>t</sup> friend and serv.

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TO COL. JAMES MADISON.

PHILADELPHIA, May 27th, 1787.

HON<sup>d</sup> SIR,—We have been here for some time, suffering a daily disappointment from the failure of the deputies to assemble for the Convention. Seven States were not made up till the day before yesterday. Our intelligence from New York promises an addition of three more by to-morrow. General Washington was unanimously called to the chair, and has accepted it. It is impossible, as yet, to form a judgment of the

result of this experiment. Every reflecting man becomes daily more alarmed at our situation. The unwise and wicked proceedings of the Governments of some States, and the unruly temper of the people of others, must, if persevered in, soon produce some new scenes among us.

My enquiries concerning the iron do not promise any supply from the quarter you wished it, nor do I find the advantage which formerly existed in sending the other articles. The late regulations of Trade here and in Virginia, particularly the act of the latter requiring the cargoes destined to Frederiksborg, &c., to be deposited, in the first instance, at ports below, are obstructions to the intercourse. Tobacco, however, of the first quality, may be sent hither to advantage. *Old* Tobacco of this description will command six dollars. Mine, which has arrived safe, being *new*, will not, I fear, fetch me more than 32s., Virginia currency.

Mr. William Strother, who was lately here, gave me the first information of the event of the election. I was not more concerned than surprised at the rejection of Major Moore. I am unable, utterly, to account for so sudden and great a change in the disposition of the people towards him. False reports occur as the most probable cause.

I have enjoyed good health since I left Virginia, and learnt with much pleasure, from Mr. Strother, that he had heard nothing otherwise with respect to my friends in general in Orange.

Remember me affectionately to my mother and the rest of the family, and accept of the dutiful regards of,

Your son.

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TO THOMAS JEFFERSON.

PHILADELPHIA, June 6th, 1787.

DEAR SIR,—The day fixed for the meeting of the Convention was the 14th ultimo. On the 25th, and not before seven States were assembled, General Washington was placed, *una voce*, in

the chair. The secretaryship was given to Major Jackson. The members present are: from Massachusetts; Mr. Gerry, Mr. Gorham, Mr. King, Mr. Strong. From Connecticut; Mr. Sherman, Doctor S. Johnson, Mr. Ellsworth. From New York; Judge Yates, Mr. Lansing, Mr. Hamilton. New Jersey; Governor Livingston, Judge Brearley, Mr. Patterson, Attorney General; [Mr. Houston and Mr. Clarke are absent members.] From Pennsylvania; Dr. Franklin, Mr. Morris, Mr. Wilson, Mr. Fitzsimmons, Mr. G. Clymer, General Mifflin, Mr. Gouverneur Morris, Mr. Ingersoll. From Delaware; Mr. John Dickenson, Mr. Reed, Mr. Bedford, Mr. Broome, Mr. Bassett. From Maryland; Major Jenifer only. Mr. McHenry, Mr. Daniel Carroll, Mr. John Mercer, Mr. Luther Martin, are absent members. The three last have supplied the resignations of Mr. Stone, Mr. Carroll of Carrolton, and Mr. T. Johnson, as I have understood the case. From Virginia; General Washington, Governor Randolph, Mr. Blair, Col. Mason, Doctor McClurg, J. Madison. Mr. Wythe left us yesterday, being called home by the serious declension of his lady's health. From North Carolina; Col. Martin, late Governor, Doctor Williamson, Mr. Spaight, Col. Davy; Col. Blount is another member, but is detained by indisposition at New York. From South Carolina; Mr. John Rutledge, General Pinckney, Mr. Charles Pinckney, Major Pierce Butler; Mr. Laurens is in the Commission from that State, but will be kept away by the want of health. From Georgia; Col. Few, Major Pierce, formerly of Williamsburg, and aid to General Greene, Mr. Houston. Mr. Baldwin will be added to them in a few days. Welton and Pendleton are also in the deputation. New Hampshire has appointed Deputies, but they are not expected, the State treasury being empty, it is said, and a substitution of private resources being inconvenient or impracticable. I mention this circumstance to take off the appearance of backwardness, which that State is not in the least chargeable with, if we are rightly informed of her disposition. Rhode Island has not yet acceded to the measure. As their Legislature meet very frequently, and can at any time be got together in a week, it is

possible that caprice, if no other motive, may yet produce a unanimity of the States in this experiment.

In furnishing you with this list of names, I have exhausted all the means which I can make use of for gratifying your curiosity. It was thought expedient, in order to secure unbiassed discussion within doors, and to prevent misconceptions and misconstructions without, to establish some rules of caution, which will for no short time restrain even a confidential communication of our proceedings. The names of the members will satisfy you that the States have been serious in this business. The attendance of General Washington is a proof of the light in which he regards it. The whole community is big with expectation, and there can be no doubt but that the result will in some way or other have a powerful effect on our destiny.

Mr. Adams' book, which has been in your hands, of course has excited a good deal of attention. An edition has come out here, and another is in the press at N. York. It will probably be much read, particularly in the Eastern States, and contribute, with other circumstances, to revive the predelictions of this country for the British Constitution. Men of learning find nothing new in it; men of taste many things to criticise; and men without either, not a few things which they will not understand. It will, nevertheless, be read and praised, and become a powerful engine in forming the public opinion. The name and character of the author, with the critical situation of our affairs, naturally account for such an effect. The book also has merit, and I wish many of the remarks in it which are unfriendly to republicanism may not receive fresh weight from the operations of our governments.

I learn from Virginia that the appetite for paper money grows stronger every day. Mr. Henry is an avowed patron of the scheme, and will not fail, I think, to carry it through, unless the County [Prince Edward] which he is to represent shall bind him hand and foot by instructions. I am told that this is in contemplation. He is also said to be unfriendly to an acceleration of Justice. There is good reason to believe that

he is hostile to the object of the Convention, and that he wishes either a partition or total dissolution of the Confederacy.

I sent you a few days ago, by a vessel going to France, a box with pecan nuts planted in it. Mr. John Vaughan was so good as to make arrangements with the captain, both for their preservation during the voyage and the conveyance of them afterwards. I had before sent you, via England, a few nuts sealed up in a letter.

Mr. Wythe gave me favorable accounts of your nephew in Williamsburg; and from the President of Hampden Sidney, who was here a few days ago, I received information equally pleasing of your younger nephew.

I must beg you to communicate my affectionate respects to our friend Mazzei, and to let him know that I have taken every step for securing his claim on Dorman which I judged most likely to succeed. There is little doubt that Congress will allow him more than he owes Mr. Mazzei, and I have got from him such a draught on the Treasury board as I think will ensure him the chance of that fund. Dorman is at present in Virginia, where he has also some claims and expectations, but they are not in a transferable situation. I intended to have written to Mazzei, and must beg his pardon for not doing it. It is really out of my power at this time.

Adieu. Yours affectionately,

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TO THOMAS JEFFERSON.

PHILADELPHIA, July 18th, 1787.

DEAR SIR,—The Convention continue to sit, and have been closely employed since the commencement of the session. I am still under the mortification of being restrained from disclosing any part of their proceedings. As soon as I am at liberty, I will endeavour to make amends for my silence, and if I ever have the pleasure of seeing you, shall be able to give you pretty full gratification. I have taken lengthy notes of everything

that has yet passed, and mean to go on with the drudgery, if no indisposition obliges me to discontinue it. It is not possible to form any judgment of the future duration of the session. I am led by sundry circumstances to guess that the residue of the work will not be very quickly despatched. The public mind is very impatient for the event, and various reports are circulating which tend to inflame curiosity. I do not learn, however, that any discontent is expressed at the concealment; and have little doubt that the people will be as ready to receive as we shall be able to propose a Government that will secure their liberties and happiness.

I am not able to give you any account of what is doing at New York. Your correspondents there will no doubt supply the omission. The paper money here ceased to circulate very suddenly a few days ago. It had been for some time vibrating between a depreciation of 12 and of 20 per cent. Its entire stagnation is said to have proceeded from a combination of a few people with whom the country people deal on market days against receiving it. The consequence was that it was refused in the market, and great distress brought on the poorer citizens. Some of the latter began in turn to form combinations of a more serious nature, in order to take revenge on the supposed authors of the stagnation. The timely interposition of some influential characters prevented a riot, and prevailed on the persons who were opposed to the paper to publish their willingness to receive it. This has stilled the popular rage, and got the paper into circulation again. It is, however, still considerably below par, and must have received a wound which will not easily be healed. Nothing but evil springs from this imaginary money wherever it is tried, and yet the appetite for it where it has not been tried continues to be felt. There is great reason to fear that the bitterness of the evil must be tasted in Virginia before the appetite there will be at an end.

The wheat harvest throughout the continent has been uncommonly fine, both in point of quantity and quality. The crops of corn and Tobacco on the ground in Virginia are very different in different places. I rather fear that in general they are

both bad, particularly the former. I have just received a letter from Orange, which complains much of appearances in that neighborhood, but says nothing of them in the parts adjacent.

Present my best respects to Mr. Short and Mr. Mazzei. Nothing has been done since my last to the latter with regard to his affair with Dorman.

Wishing you all happiness, I am, dear sir, your affectionate friend and serv.

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TO COL. JAMES MADISON.

PHILADELPHIA, July 28th, 1787.

HON<sup>d</sup> SIR,— \* \* \* \* \*

I am sorry that I cannot gratify your wish to be informed of the proceedings of the Convention. An order of secrecy leaves me at liberty merely to tell you that nothing definitive is yet done, that the Session will probably continue for some time yet, that an adjournment took place on thursday last until Monday week, and that a Committee is to be at work in the mean time. Late information from Europe presents a sad picture of things in Holland. Civil blood has been already spilt, and various circumstances threaten a torrent of it. Many, it is said, are flying with their property to England. How much is it to be lamented that America does not present a more inviting asylum!

Congress have been occupied for some time past on Western affairs. They have provided for the Government of the Country by an ordinance, of which a copy is herewith inclosed. They have on the anvil, at present, some projects for the most advantageous sale of the lands. Col. Carrington informs me that Indian affairs wear a very hostile appearance; that money must in all probability be expended in further treaties; that a General Confederacy has been formed of all the nations and tribes from the six nations, inclusive, to the Mississippi, under the auspices of Brandt; that a General Council was held in December

last in form, near Detroit, in which was considered as grievances the surveying of lands on the North West side of the Ohio, the pretext being, as usual, that the treaties which preceded that measure were made by parts only of the Nations whose consent was necessary, and that a united representation of this grievance has been received by Congress. That as to the hostilities on Kentucky, the superintendent of Indian affairs, or, in case of his inability to go, Col. Harmar, is ordered to proceed immediately to some convenient place for holding a Treaty with the hostile tribes, and by that means restore, if possible, peace in that quarter. In the mean time, Col. Harmer is so to fort the federal troops as to provide the best defence for the country, and to call for such aids of Militia as he shall find necessary.

The crops of wheat in this and the neighbouring States, and, indeed, throughout the Continent, as far as I can learn, have been remarkably fine. I am sorry to hear that your crops of corn are likely to be so much shortened by the dry weather. The weather has been dry in spots in this quarter. At present it is extremely seasonable just here, and I do not know that it is otherwise elsewhere. I hope Virginia partakes of the blessing.

A letter from my brother gave me the first notice of your indisposition. It is my most fervent wish that this may find your health thoroughly re-established, and that of my mother and the rest of the family unimpaired. Being, with entire affection, your dutiful son.

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TO JAMES MADISON, SENR.

PHILADELPHIA, Sept<sup>r</sup> 4th, 1787.

HON<sup>d</sup> SIR,—The Convention has not yet broken up, but its session will probably continue but a short time longer. Its proceedings are still under the injunction of secrecy. We hear that a spirit of insurrection has shown itself in the County of



Green Briar. Some other Counties have been added by report as infected with the same spirit; but the silence of the letters from Richmond on this latter fact gives us hopes that the Report is not well founded. We understand, also, that the upper parts of the country have suffered extremely from the drought, and that the crops will not suffice for the subsistence of the inhabitants. I hope the account is exaggerated, and wait with some impatience for a confirmation of this hope.

The crops of wheat in this quarter have been uncommonly fine, and the latter rains have been so seasonable for the corn that the prospect of that crop is tolerably good. The price of good Tobacco here at present is 40s., Virginia money.

As soon as the tie of secrecy shall be dissolved I will forward the proceedings of the Convention. In the mean time, with my affectionate regards for all the family,

I remain, your dutiful son.

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TO THOMAS JEFFERSON.

PHILADELPHIA, Sept<sup>r</sup> 6th, 1787.

DEAR SIR,—My last was intended for the August packet, and put into the hands of Commodore Paul Jones. Some disappointments prevented his going, and as he did not know but its contents might be unfit for the ordinary conveyance, he retained it. The precaution was unnecessary. For the same reason the delay has been of little consequence. The rule of secrecy in the Convention rendered that, as it will this letter, barren of those communications which might otherwise be made. As the Convention will shortly rise, I should feel little scruple in disclosing what will be public here before it could reach you, were it practicable for me to guard by cypher against an intermediate discovery. But I am deprived of this resource by the shortness of the interval between the receipt of your letter of June 20 and the date of this. This is the first day which has been free from Committee service, both before and after the hours of the House,

and the last that is allowed me by the time advertised for the sailing of the packet.

The Convention consists now, as it has generally done, of eleven States. There has been no intermission of its session since a house was formed, except an interval of about ten days allowed a committee appointed to detail the general propositions agreed on in the House. The term of its dissolution cannot be more than one or two weeks distant. A Government will probably be submitted to the people of the States, consisting of a President, clothed with Executive power; a Senate chosen by the *Legislatures*, and another House chosen by the people of the States, jointly possessing the Legislative power; and a regular Judiciary establishment. The mode of constituting the Executive is among the few points not yet finally settled. The Senate will consist of two members from each State, and appointed sexennially. The other House, of members appointed biennially by the people of the States, in proportion to their number. The Legislative power will extend to taxation, trade, and sundry other general matters. The powers of Congress will be distributed, according to their nature, among the several departments. The States will be restricted from paper money, and in a few other instances. These are the outlines. The extent of them may, perhaps, surprize you. I hazard an opinion, nevertheless, that the plan, should it be adopted, will neither effectually answer its national object, nor prevent the local mischiefs which everywhere excite disgusts against the State Governments. The grounds of this opinion will be the subject of a future letter.

I have written to a friend in Congress, intimating, in a covert manner, the necessity of deciding and notifying the intentions of Congress with regard to their foreign Ministers after May next, and have dropped a hint on the communications of Dumas.

Congress have taken some measures for disposing of the public land, and have actually sold a considerable tract. Another bargain, I learn, is on foot for a further sale.

Nothing can exceed the universal anxiety for the event of the meeting here. Reports and conjectures abound concerning the

nature of the plan which is to be proposed. The public, however, is certainly in the dark with regard to it. The Convention is equally in the dark as to the reception which may be given to it on its publication. All the prepossessions are on the right side, but it may well be expected that certain characters will wage war against any reform whatever. My own idea is, that the public mind will now, or in a very little time, receive anything that promises stability to the public Councils and security to private rights, and that no regard ought to be had to local prejudices or temporary considerations. If the present moment be lost, it is hard to say what may be our fate.

Our information from Virginia is far from being agreeable. In many parts of the Country the drought has been extremely injurious to the Corn. I fear, tho' I have no certain information, that Orange and Albemarle share in the distress. The people, also, are said to be generally discontented. A paper emission is again a topic among them; so is an instalment of all debts, in some places, and the making property a tender in others. The taxes are another source of discontent. The weight of them is complained of, and the abuses in collecting them still more so. In several Counties the prisons, and Court Houses, and Clerks' offices, have been wilfully burnt. In Green Briar, the course of Justice has been mutinously stopped, and associations entered into against the payment of taxes. No other County has yet followed the example. The approaching meeting of the Assembly will probably allay the discontents on one side by measures which will excite them on another.

Mr. Wythe has never returned to us. His lady, whose illness carried him away, died some time after he got home. The other deaths in Virginia are Col. A. Cary, and a few days ago, Mrs. Harrison, wife of Benjamin Harrison, Jun<sup>r</sup>, and sister of J. F. Mercer.

Wishing you all happiness, I remain, dear sir, yours affectionately.

Give my best wishes to Mazzei. I have received his letter

and book, and will write by the next packet to him. Dorman is still in Virginia. Congress have done nothing for him in his affair. I am not sure that 9 States have been assembled of late. At present, it is doubtful whether there are seven.

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TO EDMUND PENDLETON.

PHILADELPHIA, September 20th, 1787.

DEAR SIR,—The privilege of franking having ceased with the Convention, I have waited for this opportunity of inclosing you a copy of the proposed Constitution for the United States. I forbear to make any observations on it, either on the side of its merits or its faults. The best judges of both will be those who can combine with a knowledge of the collective and permanent interest of America a freedom from the bias resulting from a participation in the work. If the plan proposed be worthy of adoption, the degree of unanimity attained in the Convention is a circumstance as fortunate as the very respectable dissent on the part of Virginia is a subject of regret. The double object of blending a proper stability and energy in the Government with the essential characters of the republican form, and of tracing a proper line of demarkation between the national and State authorities, was necessarily found to be as difficult as it was desirable, and to admit of an infinite diversity concerning the means among those who were unanimously agreed concerning the end.

I find, by a letter from my father, that he and my uncle Erasmus have lately paid their respects to Edmundsbury. I infer from his silence as to your health that no unfavorable change had happened in it. That this may find it perfectly re-established is the sincere and affectionate wish of,

Dear sir, your friend and humble serv<sup>t</sup>.

TO JAMES MADISON, SEN<sup>R</sup>.NEW YORK, Sept<sup>r</sup> 30th, 1787.

HON<sup>D</sup> SIR,—By Mr. Blair, who left Philadelphia immediately after the rising of the Convention, I sent to the care of Mr. F. Maury a copy of the new Constitution proposed for the U. S. Mr. Blair set out in such haste that I had no time to write by him, and I thought the omission of the less consequence, as your last letter led me to suppose that you must, about that time, be absent on your trip to Frederick.

I arrived here on monday last. The act of the Convention was then before Congress. It has been since taken up, and by a unanimous vote forwarded to the States, to be proceeded on as recommended by the Convention. What reception this new system will generally meet with cannot yet be pronounced. For obvious reasons, opposition is as likely to arise in Virginia as anywhere. The city of Philadelphia has warmly espoused it. Both parties there, it is said, have united on the occasion. It may happen, nevertheless, that a country party may spring up and give a preponderancy to the opposite scale. In this city the general voice coincides with that of Philadelphia, but there is less apparent unanimity, and it is pretty certain that the party in power will be active in defeating the new system. In Boston the reception given to it is extremely favorable, we are told, but more will depend on the country than the town. The echo from Connecticut and New Jersey, as far as it has reached us, denotes a favorable disposition in those States.

I inclose a few plumb-stones from an excellent tree. I am aware that this is not the true mode of propagating the fruit, but it sometimes succeeds, and sometimes even improves the fruit.

With my affectionate regards to my mother and the family, I remain, your dutiful son.

## TO GENERAL WASHINGTON.

NEW YORK, October 14, 1787.

DEAR SIR,—The letter herewith enclosed was put into my hands yesterday by Mr. de Crevecoeur, who belongs to the Consular establishment of France in this country. I add to it a pamphlet which Mr. Pinckney has submitted to the public, or rather, as he professes, to the perusal of his friends, and a printed sheet containing his ideas on a very delicate subject, too delicate, in my opinion, to have been properly confided to the press. He conceives that his precautions against any further circulation of the piece than he himself authorizes are so effectual as to justify the step. I wish he may not be disappointed. In communicating a copy to you, I fulfil his wishes only.

No decisive indications of the public mind in the Northern and middle States can yet be collected. The reports continue to be rather favorable to the act of the Convention from every quarter; but its adversaries will naturally be latest in shewing themselves. Boston is certainly friendly. An opposition is known to be in petto in Connecticut, but it is said not to be much dreaded by the other side. Rhode Island will be divided on this subject in the same manner that it has been on the question of paper money. The newspapers here have contained sundry publications animadverting on the proposed Constitution, and it is known that the Government party are hostile to it. There are on the other side so many able and weighty advocates, and the conduct of the Eastern States, if favorable, will add so much force to their arguments, that there is at least as much ground for hope as for apprehension. I do not learn that any opposition is likely to be made in New Jersey. The temper of Pennsylvania will be best known to you from the direct information which you cannot fail to receive through the newspapers and other channels.

Congress have been of late employed chiefly in settling the requisition, and in making some arrangements for the Western country. The latter consist of the appointment of a Governor and Secretary, and the allotment of a sum of money for Indian

treaties, if they should be found necessary. The requisition, so far as it varies our fiscal system, makes the proportion of Indents receivable independently of specie, and those of different years indiscriminately receivable for any year, and does not, as heretofore, tie down the States to a particular mode of obtaining them. Mr. Adams has been permitted to return home after February next, and Mr. Jefferson's appointment continued for three years longer.

With the most perfect esteem, and most affectionate regard, I remain, dear sir,

Your obt friend and serv<sup>t</sup>.

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TO THOMAS JEFFERSON.

NEW YORK, Oct<sup>r</sup> 24th, 1787.

DEAR SIR,—My two last, though written for the two last packets, have unluckily been delayed till this conveyance. The first of them was sent from Philadelphia to Commodore Jones, in consequence of information that he was certainly to go by the packet then about to sail. Being detained here by his business with Congress, and being unwilling to put the letter into the mail without my approbation, which could not be obtained in time, he detained the letter also. The second was sent from Philadelphia to Col. Carrington, with a view that it might go by the last packet, at all events, in case Commodore Jones should meet with further detention here. By ill luck he was out of Town, and did not return till it was too late to make use of the opportunity. Neither of the letters were, indeed, of much consequence at the time, and are still less so now. I let them go forward, nevertheless, as they may mention some circumstances not at present in my recollection, and as they will prevent a chasm in my part of a correspondence which I have so many motives to cherish by an exact punctuality.

You will herewith receive the result of the Convention, which continued its session till the 17th of September. I take the lib-

erty of making some observations on the subject, which will help to make up a letter, if they should answer no other purpose.

It appeared to be the sincere and unanimous wish of the Convention to cherish and preserve the Union of the States. No proposition was made, no suggestion was thrown out, in favor of a partition of the Empire into two or more Confederacies.

It was generally agreed that the objects of the Union could not be secured by any system founded on the principle of a confederation of Sovereign States. A *voluntary* observance of the federal law by all the members could never be hoped for. A *compulsive* one could evidently never be reduced to practice, and if it could, involved equal calamities to the innocent and the guilty, the necessity of a military force, both obnoxious and dangerous, and, in general, a scene resembling much more a civil war than the administration of a regular Government.

Hence was embraced the alternative of a Government which, instead of operating on the States, should operate without their intervention on the individuals composing them; and hence the change in the principle and proportion of representation.

This ground-work being laid, the great objects which presented themselves were: 1. To unite a proper energy in the Executive, and a proper stability in the Legislative departments, with the essential characters of Republican Government. 2. To draw a line of demarkation which would give to the General Government every power requisite for general purposes, and leave to the States every power which might be most beneficially administered by them. 3. To provide for the different interests of different parts of the Union. 4. To adjust the clashing pretensions of the large and small States. Each of these objects was pregnant with difficulties. The whole of them together formed a task more difficult than can be well conceived by those who were not concerned in the execution of it. Adding to these considerations the natural diversity of human opinions on all new and complicated subjects, it is impossible to consider the degree of concord which ultimately prevailed as less than a miracle.



The first of these objects, as respects the Executive, was peculiarly embarrassing. On the question whether it should consist of a single person or a plurality of co-ordinate members, on the mode of appointment, on the duration in office, on the degree of power, on the re-eligibility, tedious and reiterated discussions took place. The plurality of co-ordinate members had finally but few advocates. Governor Randolph was at the head of them. The modes of appointment proposed were various: as by the people at large, by electors chosen by the people, by the Executives of the States, by the Congress; some preferring a joint ballot of the two Houses; some, a separate concurrent ballot, allowing to each a negative on the other house; some, a nomination of several candidates by one House, out of whom a choice should be made by the other. Several other modifications were started. The expedient at length adopted seemed to give pretty general satisfaction to the members. As to the duration in office, a few would have preferred a tenure during good behaviour; a considerable number would have done so in case an easy and effectual removal by impeachment could be settled.

It was much agitated whether a long term, seven years for example, with a subsequent and perpetual ineligibility, or a short term, with a capacity to be re-elected, should be fixed. In favor of the first opinion were urged the danger of a gradual degeneracy of re-elections from time to time, into first a life and then a hereditary tenure, and the favorable effect of an incapacity to be reappointed on the independent exercise of the Executive authority. On the other side it was contended that the prospect of necessary degradation would discourage the most dignified characters from aspiring to the office; would take away the principal motive to the faithful discharge of its duties—the hope of being rewarded with a reappointment; would stimulate ambition to violent efforts for holding over the Constitutional term; and instead of producing an independent administration and a firmer defence of the constitutional rights of the department, would render the officer more indifferent to the importance of a place which he would soon be obliged to quit forever,

and more ready to yield to the encroachments of the Legislature, of which he might again be a member.

The questions concerning the degree of power turned chiefly on the appointment to offices, and the controul on the Legislature. An *absolute* appointment to all offices, to some offices, to no offices, formed the scale of opinions on the first point. On the second, some contended for an absolute negative, as the only possible mean of reducing to practice the theory of a free Government, which forbids a mixture of the Legislative and Executive powers. Others would be content with a revisionary power, to be overruled by three-fourths of both Houses. It was warmly urged that the judiciary department should be associated in the revision. The idea of some was, that a separate revision should be given to the two departments; that if either objected, two-thirds, if both, three-fourths, should be necessary to overrule.

In forming the Senate, the great anchor of the government, the questions, as they come within the first object, turned mostly on the mode of appointment, and the duration of it. The different modes proposed were: 1. By the House of Representatives. 2. By the Executive. 3. By electors chosen by the people for the purpose. 4. By the State Legislatures. On the point of duration, the propositions descended from good behaviour to four years, through the intermediate terms of nine, seven, six, and five years. The election of the other branch was first determined to be triennial, and afterwards reduced to biennial.

The second object, the due partition of power between the General and local Governments, was perhaps, of all, the most nice and difficult. A few contended for an entire abolition of the States; some, for indefinite power of Legislation in the Congress, with a negative on the laws of the States; some, for such a power without a negative; some, for a limited power of legislation, with such a negative; the majority, finally, for a limited power without the negative. The question with regard to the negative underwent repeated discussions, and was finally rejected by a bare majority. As I formerly intimated to you my opinion in favor of this ingredient, I will take this occasion

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of explaining myself on the subject. Such a check on the States appears to me necessary—1. To prevent encroachments on the General authority. 2. To prevent instability and injustice in the legislation of the States.

1. Without such a check in the whole over the parts, our system involves the evil of *imperia in imperio*. If a complete supremacy somewhere is not necessary in every society, a controuling power at least is so, by which the general authority may be defended against encroachments of the subordinate authorities, and by which the latter may be restrained from encroachments on each other. If the supremacy of the British Parliament is not necessary, as has been contended, for the harmony of that Empire, it is evident, I think, that *without the royal negative, or some equivalent controul*, the unity of the system would be destroyed. The want of some such provision seems to have been mortal to the antient confederacies, and to be the disease of the modern. Of the Lycian confederacy little is known. That of the Amphictyons is well known to have been rendered of little use whilst it lasted, and, in the end, to have been destroyed by the predominance of the local over the federal authority. The same observation may be made, on the authority of Polybius, with regard to the Achæan League. The Helvetic System scarcely amounts to a confederacy, and is distinguished by too many peculiarities to be a ground of comparison.

The case of the United Netherlands is in point. The authority of a Statdholder, the influence of a standing Army, the common interest in the conquered possessions, the pressure of surrounding danger, the guarantee of foreign powers, are not sufficient to secure the authority and interest of the generality against the anti-federal tendency of the provincial sovereignties. The German Empire is another example. A Hereditary chief, with vast independent resources of wealth and power, a federal Diet, with ample parchment authority, a regular Judiciary establishment, the influence of the neighbourhood of great and formidable nations, have been found unable either to maintain the subordination of the members, or to prevent their mutual

contests and encroachments. Still more to the purpose is our own experience, both during the war and since the peace. Encroachments of the States on the general authority, sacrifices of national to local interests, interferences of the measures of different States, form a great part of the history of our political system.

It may be said that the new Constitution is founded on different principles, and will have a different operation. I admit the difference to be material. It presents the aspect rather of a feudal system of republics, if such a phrase may be used, than of a Confederacy of independent States. And what has been the progress and event of the feudal Constitutions? In all of them a continual struggle between the head and the inferior members, until a final victory has been gained, in some instances by one, in others, by the other of them. In one respect, indeed, there is a remarkable variance between the two cases. In the feudal system, the sovereign, though limited, was independent; and having no particular sympathy of interests with the great Barons, his ambition had as full play as theirs in the mutual projects of usurpation. In the American Constitution, the general authority will be derived entirely from the subordinate authorities. The Senate will represent the States in their political capacity; the other House will represent the people of the States in their individual capacity. The former will be accountable to their constituents at moderate, the latter at short periods. The President also derives his appointment from the States, and is periodically accountable to them. This dependence of the General on the local authorities seems effectually to guard the latter against any dangerous encroachments of the former; whilst the latter, within their respective limits, will be continually sensible of the abridgement of their power, and be stimulated by ambition to resume the surrendered portion of it.

We find the representatives of Counties and Corporations in the Legislatures of the States much more disposed to sacrifice the aggregate interest, and even authority, to the local views of their constituents, than the latter to the former. I mean not by

these remarks to insinuate that an esprit de corps will not exist in the National Government, or that opportunities may not occur of extending its jurisdiction in some points. I mean only that the danger of encroachments is much greater from the other side, and that the impossibility of dividing powers of legislation in such a manner as to be free from different constructions by different interests, or even from ambiguity in the judgment of the impartial, requires some such expedient as I contend for. Many illustrations might be given of this impossibility. How long has it taken to fix, and how imperfectly is yet fixed, the legislative power of corporations, though that power is subordinate in the most compleat manner? The line of distinction between the power of regulating trade and that of drawing revenue from it, which was once considered the barrier of our liberties, was found, on fair discussion, to be absolutely undefinable. No distinction seems to be more obvious than that between spiritual and temporal matters. Yet, wherever they have been made objects of Legislation, they have clashed and contended with each other, till one or the other has gained the supremacy. Even the boundaries between the Executive, Legislative, and judiciary powers, though in general so strongly marked in themselves, consist, in many instances, of mere shades of difference.

It may be said that the Judicial authority, under our new system, will keep the States within their proper limits, and supply the place of a negative on their laws. The answer is, that it is more convenient to prevent the passage of a law than to declare it void after it is passed; that this will be particularly the case where the law aggrieves individuals, who may be unable to support an appeal against a State to the Supreme Judiciary; that a State which would violate the Legislative rights of the Union would not be very ready to obey a Judicial decree in support of them; and that a recurrence to force, which, in the event of disobedience, would be necessary, is an evil which the new Constitution meant to exclude as far as possible.

2. A Constitutional negative on the laws of the States seems equally necessary to secure individuals against encroachments

on their rights. The mutability of the laws of the States is found to be a serious evil. The injustice of them has been so frequent and so flagrant as to alarm the most steadfast friends of Republicanism. I am persuaded I do not err in saying that the evils issuing from these sources contributed more to that uneasiness which produced the Convention, and prepared the public mind for a general reform, than those which accrued to our national character and interest from the inadequacy of the Confederation to its immediate objects. A reform, therefore, which does not make provision for private rights, must be materially defective. The restraints against paper emissions and violations of contracts are not sufficient. Supposing them to be effectual as far as they go, they are short of the mark. Injustice may be effected by such an infinitude of legislative expedients, that where the disposition exists, it can only be controuled by some provision which reaches all cases whatsoever. The partial provision made supposes the disposition which will evade it.

It may be asked how private rights will be more secure under the Guardianship of the General Government than under the State Governments, since they are both founded on the republican principle which refers the ultimate decision to the will of the majority, and are distinguished rather by the extent within which they will operate, than by any material difference in their structure. A full discussion of this question would, if I mistake not, unfold the true principles of Republican Government, and prove, in contradiction to the concurrent opinions of the theoretical writers, that this form of Government, in order to effect its purposes, must operate not within a small but an extensive sphere. I will state some of the ideas which have occurred to me on this subject.

Those who contend for a simple democracy, or a pure republic, actuated by the sense of the majority, and operating within narrow limits, assume or suppose a case which is altogether fictitious. They found their reasoning on the idea that the people composing the Society enjoy not only an equality of political rights, but that they have all precisely the same inter-

ests and the same feelings in every respect. Were this in reality the case, their reasoning would be conclusive. The interest of the majority would be that of the minority also; the decisions could only turn on mere opinion concerning the good of the whole, of which the major voice would be the safest criterion; and within a small sphere, this voice could be most easily collected, and the public affairs most accurately managed.

We know, however, that no society ever did, or can, consist of so homogeneous a mass of Citizens. In the Savage state, indeed, an approach is made towards it, but in that state little or no Government is necessary. In all civilized societies, distinctions are various and unavoidable. A distinction of property results from that very protection which a free Government gives to unequal faculties of acquiring it. There will be rich and poor; creditors and debtors; a landed interest, a monied interest, a mercantile interest, a manufacturing interest. These classes may again be subdivided according to the different productions of different situations and soils, and according to different branches of commerce and of manufactures. In addition to these natural distinctions, artificial ones will be founded on accidental differences in political, religious, or other opinions, or an attachment to the persons of leading individuals. However erroneous or ridiculous these grounds of dissention and faction may appear to the enlightened Statesman or the benevolent philosopher, the bulk of mankind, who are neither Statesmen nor philosophers, will continue to view them in a different light.

It remains, then, to be enquired, whether a majority having any common interest, or feeling any common passion, will find sufficient motives to restrain them from oppressing the minority. An individual is never allowed to be a judge, or even a witness, in his own cause. If two individuals are under the bias of interest or enmity against a third, the rights of the latter could never be safely referred to the majority of the three. Will two thousand individuals be less apt to oppress one thousand, or two hundred thousand one hundred thousand?

Three motives only can restrain in such cases: 1. A prudent

regard to private or partial good, as essentially involved in the general and permanent good of the whole. This ought, no doubt, to be sufficient of itself. Experience, however, shews that it has little effect on individuals, and perhaps still less on a collection of individuals, and least of all on a majority with the public authority in their hands. If the former are ready to forget that honesty is the best policy, the last do more. They often proceed on the converse of the maxim, that whatever is politic is honest. 2. Respect for character. This motive is not found sufficient to restrain individuals from injustice, and loses its efficacy in proportion to the number which is to divide the pain or the blame. Besides, as it has reference to public opinion, which is that of the majority, the standard is fixed by those whose conduct is to be measured by it. 3. Religion. The inefficacy of this restraint on individuals is well known. The conduct of every popular assembly, acting on oath, the strongest of religious ties, shews that individuals join without remorse in acts against which their consciences would revolt, if proposed to them, separately, in their closets. When, indeed, Religion is kindled into enthusiasm, its force, like that of other passions, is increased by the sympathy of a multitude. But enthusiasm is only a temporary state of Religion, and whilst it lasts will hardly be seen with pleasure at the helm. Even in its coolest state, it has been much oftener a motive to oppression than a restraint from it.

If, then, there must be different interests and parties in society, and a majority, when united by a common interest or passion, cannot be restrained from oppressing the minority, what remedy can be found in a republican Government, where the majority must ultimately decide, but that of giving such an extent to its sphere, that no common interest or passion will be likely to unite a majority of the whole number in an unjust pursuit? In a large society, the people are broken into so many interests and parties, that a common sentiment is less likely to be felt, and the requisite concert less likely to be formed, by a majority of the whole. The same security seems requisite for the civil as for the religious rights of individuals.



If the same sect form a majority, and have the power, other sects will be sure to be depressed. *Divide et impera*, the reprobated axiom of tyranny, is, under certain qualifications, the only policy by which a republic can be administered on just principles.

It must be observed, however, that this doctrine can only hold within a sphere of a mean extent. As in too small a sphere oppressive combinations may be too easily formed against the weaker party, so in too extensive a one a defensive concert may be rendered too difficult against the oppression of those entrusted with the administration. The great desideratum in Government is so to modify the sovereignty as that it may be sufficiently neutral between different parts of the society to controul one part from invading the rights of another, and at the same time sufficiently controuled itself from setting up an interest adverse to that of the entire society. In absolute monarchies, the prince may be tolerably neutral towards different classes of his subjects, but may sacrifice the happiness of all to his personal ambition or avarice. In small republics, the sovereign will is controuled from such a sacrifice of the entire society, but is not sufficiently neutral towards the parts composing it. In the extended Republic of the United States, the General Government would hold a pretty even balance between the parties of particular States, and be at the same time sufficiently restrained, by its dependence on the community, from betraying its general interests.

Begging pardon for this immoderate digression, I return to the third object above mentioned, the adjustments of the different interests of different parts of the continent. Some contended for an unlimited power over trade, including exports as well as imports, and over slaves as well as other imports; some, for such a power, provided the concurrence of two-thirds of both Houses were required; some, for such a qualification of the power, with an exemption of exports and slaves; others, for an exemption of exports only. The result is seen in the Constitution. South Carolina and Georgia were inflexible on the point of the Slaves.

The remaining object created more embarrassment, and a greater alarm for the issue of the Convention, than all the rest put together. The little States insisted on retaining their equality in both branches, unless a compleat abolition of the State Governments should take place; and made an equality in the Senate a *sine qua non*. The large States, on the other hand, urged that as the new Government was to be drawn principally from the people immediately, and was to operate directly on them, not on the States; and, consequently, as the States would lose that importance which is now proportioned to the importance of their voluntary compliance with the requisitions of Congress, it was necessary that the representation in both Houses should be in proportion to their size. It ended in the compromise which you will see, but very much to the dissatisfaction of several members from the large States.

It will not escape you that three names only from Virginia are subscribed to the act. Mr. Wythe did not return after the death of his lady. Doctor M'Clurg left the Convention some time before the adjournment. The Governor and Col. Mason refused to be parties to it. Mr. Gerry was the only other member who refused. The objections of the Governor turn principally on the latitude of the general powers, and on the connection established between the President and the Senate. He wished that the plan should be proposed to the States, with liberty to them to suggest alterations, which should all be referred to another General Convention, to be incorporated into the plan as far as might be judged expedient. He was not inveterate in his opposition, and grounded his refusal to subscribe pretty much on his unwillingness to commit himself, so as not to be at liberty to be governed by further lights on the subject.

Col. Mason left Philadelphia in an exceeding ill humour indeed. A number of little circumstances, arising in part from the impatience which prevailed towards the close of the business, conspired to whet his acrimony. He returned to Virginia with a fixed disposition to prevent the adoption of the plan, if possible. He considers the want of a Bill of Rights as a fatal objection. His other objections are to the substitution of the

Senate in place of an Executive Council, and to the powers vested in that body; to the powers of the Judiciary; to the vice president being made president of the Senate; to the smallness of the number of Representatives; to the restriction on the States with regard to ex post facto laws; and most of all, probably, to the power of regulating trade by a majority only of each House. He has some other lesser objections. Being now under the necessity of justifying his refusal to sign, he will, of course, muster every possible one. His conduct has given great umbrage to the County of Fairfax, and particularly to the Town of Alexandria. He is already instructed to promote in the Assembly the calling a Convention, and will probably be either not deputed to the Convention, or be tied up by express instructions. He did not object in general to the powers vested in the National Government so much as to the modification. In some respects he admitted that some further powers would have improved the system. He acknowledged, in particular, that a negative on the State laws and the appointment of the State Executives ought to be ingredients; but supposed that the public mind would not now bear them, and that experience would hereafter produce these amendments.

The final reception which will be given by the people at large to the proposed system cannot yet be decided. The Legislature of New Hampshire was sitting when it reached that State, and was well pleased with it. As far as the sense of the people there has been expressed, it is generally favorable. Boston is warm and almost unanimous in embracing it. The impression on the country is not yet known. No symptoms of disapprobation have appeared. The Legislature of that State is now sitting, through which the sense of the people at large will soon be promulged with tolerable certainty. The paper-money faction in Rhode Island is hostile. The other party zealously attached to it. Its passage through Connecticut is likely to be very smooth and easy. There seems to be less agitation in this State [New York] than anywhere. The discussion of the subject seems confined to the Newspapers. The principal characters are known to be friendly. The Governour's party, which

has hitherto been the popular and most numerous one, is supposed to be on the opposite side; but considerable reserve is practiced, of which he sets the example. New Jersey takes the affirmative side, of course. Meetings of the people are declaring their approbation and instructing their representatives.

Pennsylvania will be divided. The City of Philadelphia, the Republican party, the Quakers, and most of the Germans, espouse the Constitution. Some of the Constitutional leaders, backed by the Western Country, will oppose. An unlucky ferment on the subject in their Assembly just before its late adjournment has irritated both sides, particularly the opposition, and by redoubling the exertions of that party may render the event doubtful. The voice of Maryland, I understand from pretty good authority, is, as far as it has been declared, strongly in favor of the Constitution. Mr. Chase is an enemy, but the Town of Baltimore, which he now represents, is warmly attached to it, and will shackle him as far as it can. Mr. Paca will probably be, as usual, in the politics of Chase.

My information from Virginia is as yet extremely imperfect. I have a letter from General Washington, which speaks favorably of the impression within a circle of some extent; and another from Chancellor Pendleton, which expresses his full acceptance of the plan, and the popularity of it in his district. I am told, also, that Innes and Marshall are patrons of it. In the opposite scale are Mr. James Mercer, Mr. R. H. Lee, Doctor Lee, and their connections, of course, Mr. M. Page, according to report, and most of the Judges and bar of the General Court. The part which Mr. Henry will take is unknown here. Much will depend on it. I had taken it for granted, from a variety of circumstances, that he would be in the opposition, and still think that will be the case. There are reports, however, which favor a contrary supposition.

From the States South of Virginia nothing has been heard. As the deputation from South Carolina consisted of some of its weightiest characters, who have returned unanimously zealous in favor of the Constitution, it is probable that State will readily embrace it. It is not less probable that North Carolina

will follow the example, unless that of Virginia should counter-balance it. Upon the whole, although the public mind will not be fully known, nor finally settled, for a considerable time, appearances at present augur a more prompt and general adoption of the plan than could have been well expected.

*November 1.* Commodore Paul Jones having preferred another vessel to the packet, has remained here till this time. The interval has produced little necessary to be added to the above. The Legislature of Massachusetts have, it seems, taken up the act of the Convention, and have appointed, or probably will appoint, an early day for its State Convention. There are letters, also, from Georgia, which denote a favorable disposition. I am informed from Richmond that the new Election law from the Revised Code produced a pretty full House of Delegates, as well as a Senate, on the first day. It had previously had equal effect in producing full meetings of the freeholders for the county elections. A very decided majority of the Assembly is said to be zealous in favor of the New Constitution. The same is said of the Country at large. It appears, however, that individuals of great weight, both within and without the Legislature, are opposed to it. A letter I just have from Mr. A. Stuart names Mr. Henry, General Nelson, W. Nelson, the family of Cabells, S<sup>t</sup> George Tucker, John Taylor, and the Judges of the General Court, except P. Carrington. The other opponents he describes as of too little note to be mentioned, which gives a negative information of the characters on the other side. All are agreed that the plan must be submitted to a Convention.

We hear from Georgia that that State is threatened with a dangerous war with the Creek Indians. The alarm is of so serious a nature that law-martial has been proclaimed, and they are proceeding to fortify even the town of Savannah. The idea there is, that the Indians derive their motives as well as their means from their Spanish neighbours. Individuals complain, also, that their fugitive slaves are encouraged by East Florida. The policy of this is explained by supposing that it is considered as a discouragement to the Georgians to form settlements near the Spanish boundaries.

There are but few States on the spot here which will survive the expiration of the federal year, and it is extremely uncertain when a Congress will again be formed. We have not yet heard who are to be in the appointment of Virginia for the next year.

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TO EDMUND PENDLETON.

NEW YORK, October 28th, 1787.

DEAR SIR,—I have received, and acknowledge with great pleasure, your favor of the 8th inst. The remarks which you make on the act of the Convention appear to me to be in general extremely well founded. Your criticism on the clause exempting vessels bound to and from a State from being obliged to enter, &c., in another, is particularly so. This provision was dictated by the jealousy of some particular States, and was inserted pretty late in the Session. The object of it was what you conjecture. The expression is certainly not accurate. Is not a religious test, as far as it is necessary, or would operate, involved in the oath itself? If the person swearing believes in the Supreme Being, who is invoked, and in the penal consequences of offending him, either in this or a future world, or both, he will be under the same restraint from perjury as if he had previously subscribed a test requiring this belief. If the person in question be an unbeliever in these points, and would, notwithstanding, take the oath, a previous test could have no effect. He would subscribe it as he would take the oath, without any principle that could be affected by either.

I find, by a letter from Mr. Dawson, that the proposed Constitution is received by the Assembly with a more prompt and general approbation than could well have been expected. The example of Virginia will have great weight, and the more so, as the disagreement of the deputation will give it more the appearance of being the unbiassed expression of the public mind. It would be truly mortifying if anything should occur to prevent or retard the concurrence of a State which has generally taken the lead on great occasions. And it would be the more

so in this case, as it is generally believed that nine of the States at least will embrace the plan, and, consequently, that the tardy remainder must be reduced to the dilemma of either shifting for themselves, or coming in without any credit for it.

There is reason to believe that the Eastern States, Rhode Island excepted, will be among the foremost in adopting the system. No particular information is yet received from New Hampshire. The presumptive evidence of its good disposition, however, is satisfactory. The Legislature of Massachusetts is now sitting, and letters from good authority say that everything goes well. Connecticut has unanimously called a Convention, and left no room to doubt her favorable disposition. This State has long had the character of being anti-federal. Whether she will purge herself of it on this occasion, or not, is yet to be ascertained. Most of the respectable characters are zealous on the right side. The party in power is suspected, on good grounds, to be on the wrong one. New Jersey adopts eagerly the Constitution. Pennsylvania is considerably divided; but the majority are, as yet, clearly with the Convention. I have no very late information from Maryland. The reports are, that the opposition will make no great figure. Not a word has been heard from the States South of Virginia, except from the lower parts of North Carolina, where the Constitution was well received. There can be little doubt, I think, that the three Southern States will go right, unless the conduct of Virginia were to mislead them. I enclose two of the last newspapers of this place, to which I add one of Philad<sup>a</sup>, containing the report of a late important decision of the Supreme Court there. If the report be faithful, I suspect it will not give you a high idea of the chancery knowledge of the Chief Justice.

I am, dear sir, with sincere affection, your obt friend and serv<sup>t</sup>.

## TO GENERAL WASHINGTON.

NEW YORK, November 18, 1787.

DEAR SIR,—Your favour of the 5th instant found me in Philadelphia, whither I had proceeded, under arrangements for proceeding to Virginia or returning to this place, as I might there decide. I did not acknowledge it in Philadelphia, because I had nothing to communicate which you would not receive more fully and correctly from the Mr. Morris, who were setting out for Virginia.

All my informations from Richmond concur in representing the enthusiasm in favor of the new Constitution as subsiding, and giving place to a spirit of criticism. I was fearful of such an event from the influence and co-operation of some of the adversaries. I do not learn, however, that the cause has lost its majority in the Legislature, and still less among the people at large.

I have nothing to add to the information heretofore given concerning the progress of the Constitution in other States. Mr. Gerry has presented his objections to the Legislature in a letter addressed to them, and signified his readiness, if desired, to give the particular reasons on which they were founded. The Legislature, it seems, decline the explanation, either from a supposition that they have nothing further to do in the business, having handed it over to the Convention, or from an unwillingness to countenance Mr. Gerry's conduct, or from both of these considerations. It is supposed that the promulgation of this letter will shake the confidence of some, and embolden the opposition of others in that State; but I cannot discover any ground for distrusting the prompt and decided concurrence of a large majority.

I enclose herewith the seven first numbers of the *Federalist*, a paper addressed to the people of this State. They relate entirely to the importance of the Union. If the whole plan should be executed, it will present to the public a full discussion of the merits of the proposed Constitution in all its relations. From the opinion I have formed of the views of a party in Virginia,



I am inclined to think that the observations on the first branch of the subject may not be superfluous antidotes in that State, any more than in this. If you concur with me, perhaps the papers may be put into the hands of some of your confidential correspondents at Richmond, who would have them reprinted there. I will not conceal from you that I am likely to have such a *degree* of connection with the publication here as to afford a restraint of delicacy from interesting myself directly in the republication elsewhere. You will recognize one of the pens concerned in the task. There are three in the whole. A fourth may possibly bear a part.

The intelligence by the packet, as far as I have collected it, is contained in the Gazette of yesterday.

Virginia is the only State represented, as yet. When a Congress will be formed is altogether uncertain. It is not very improbable, I think, that the interregnum may continue throughout the winter.

With every sentiment, &c.

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TO GENERAL WASHINGTON.

NEW YORK, November 20, 1787.

DEAR SIR,—My last enclosed the seven first numbers of the paper of which I gave you some account. I now add the seven following numbers, which close the first branch of the subject—the importance of the Union. The succeeding papers shall be forwarded from time to time as they come out.

The latest authentic information from Europe places the Dutch in a wretched situation. The patriots will probably depend, in the event, on external politics for the degree of security and power that may be left them. The Turks and Russians have begun a war in that quarter, and a general one is not improbable.

I have heard nothing of consequence lately concerning the progress of the new Constitution. The Pennsylvania Conven-

tion has probably by this time come to a decision, but it is not known here.

Not more than two or three States are yet convened. The prospect of a quorum during the winter continues precarious.

With every sentiment of respect and attachment, I remain, Dear Sir, your affect<sup>o</sup>, humble serv<sup>t</sup>.

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TO GENERAL WASHINGTON.

NEW YORK, December 7, 1787.

DEAR SIR,—My last enclosed a continuation of the *Federalist* to number 14, inclusive. I now add the numbers which have succeeded.

No authentic information has yet arrived concerning the posture of Europe. Reports, with some less doubtful symptoms, countenance the suspicions of war.

I understand that the Constitution will certainly be adopted in Connecticut, the returns of the Deputies being now known, and a very great majority found to be its declared and firm friends. There will be more opposition in Massachusetts, but its friends there continue to be very sanguine of victory. New Hampshire, as far as I can learn, may be set down on the right list.

I remain, dear Sir, with the highest respect and the most unfeigned attachment, your obedient, humble servant.

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TO THOMAS JEFFERSON.

NEW YORK, December 9th, 1787.

DEAR SIR,—Your favor of the 17th of September, with sundry other letters and packets, came duly by the last packet. Such of them as were addressed to others were duly forwarded. The three boxes, marked I. M., G. W., and A. D., it appears,

were never shipped from Havre. Whenever they arrive your commands with regard to the two last shall be attended to, as well as those relating to some of the contents of the first. I have not been able to get any satisfactory account of William S. Browne. Alderman Broom tells me that he professed to receive the money from him for the use of Mr. Burke. I shall not lose sight of the subject, and will give you the earliest information of the result of my enquiries.

The annexed list of trees will shew you that I have ventured to substitute half a dozen sorts of apples in place of the pippins alone, and to add 8 other sorts of American Trees, including twenty of the Sugar maple. They were obtained from a Mr. Prince, in the neighborhood of this city, who deals largely in this way, and is considered as a man of worth. I learn from him that he has executed various commissions for Europe and the West Indies, as well as places less distant, and that he has been generally very successful in preserving the trees from perishing by such distant transplantations. He does not use moss, as you prescribe, but encloses the roots in a bag of earth. As moss is not to be got, he says, it is uncertain whether necessity or choice gives the preference to the latter. I enclose a catalogue of his nursery, and annex the price of the sample I send you, that you may, if you incline, give orders for any other supply. I doubt whether the Virginia Red Birds are found in this part of America. Opossums are not rare in the milder parts of New Jersey, but are very rare this far Northward. I shall, nevertheless, avail myself of any opportunities which may happen for procuring and forwarding both.

Along with the box of trees, I send by the packet, to the care of Mr. Limosin, two barrels of New-town pippins, and two of Cranberries. In one of the latter the Cranberries are put up dry, in the other in water; the opinions and accounts differing as to the best mode, you will note the event of the experiment.

The Constitution proposed by the late Convention engrosses almost the whole political attention of America. All the Legislatures, except that of Rhode Island, which has assembled, have agreed in submitting it to State Conventions. Virginia has

set the example of opening a door for amendments, if the Convention there should chuse to propose them. Maryland has copied it. The States which preceded referred the Constitution, as recommended by the General Convention, to be ratified or rejected as it stands. The Convention of Pennsylvania is now sitting. There are about 44 or 45 on the affirmative, and about half that number on the opposite side; a considerable number of the Constitutional party, as it was called, having joined the other party in espousing the Federal Constitution. The returns of deputies for the Convention of Connecticut are known, and prove, as is said by those who know the men, that a very great majority will adopt it in that State.

The event in Massachusetts lies in greater uncertainty. The friends of the New Government continue to be sanguine. New Hampshire, from every account, as well as from some general inducements felt there, will pretty certainly be on the affirmative side. So will New Jersey and Delaware. New York is much divided. She will hardly dissent from New England, particularly if the conduct of the latter should coincide with that of New Jersey and Pennsylvania. A more formidable opposition is likely to be made in Maryland than was at first conjectured. Mr. Mercer, it seems, who was a member of the Convention, though his attendance was but for a short time, is become an auxiliary to Chase. Johnson, the Carrolls, Governor Lee, and most of the other characters of weight, are on the other side. Mr. T. Stone died a little before the Government was promulged.

The body of the people in Virginia, particularly in the upper and lower Country, and in the Northern neck, are, as far as I can gather, much disposed to adopt the New Constitution. The middle Country, and the South side of James River, are principally in the opposition to it. As yet a large majority of the people are under the first description; as yet, also, are a majority of the Assembly. What change may be produced by the united influence and exertions of Mr. Henry, Mr. Mason, and the Governor, with some pretty able auxiliaries, is uncertain. My information leads me to suppose there must be three parties

in Virginia. The first, for adopting without attempting amendments. This includes General Washington and the other deputies who signed the Constitution, Mr. Pendleton, (Mr. Marshall, I believe,) Mr. Nicholas, Mr. Corbin, Mr. Zach<sup>y</sup> Johnson, Col. Innes, (Mr. B. Randolph, as I understand,) Mr. Harvey, Mr. Gabriel Jones, Doctor Jones, &c., &c. At the head of the second party, which urges amendments, are the Governor and Mr. Mason. These do not object to the substance of the Government, but contend for a few additional guards in favor of the rights of the States and of the people. I am not able to enumerate the characters which fall in with their ideas, as distinguished from those of a third class, at the head of which is Mr. Henry. This class concurs at present with the patrons of amendments, but will probably contend for such as strike at the essence of the system, and must lead to an adherence to the principle of the existing confederation, which most thinking men are convinced is a visionary one, or to a partition of the Union into several Confederacies.

Mr. Harrison, the late Governor, is with Mr. Henry. So are a number of others. The General and Admiralty Courts, with most of the Bar, oppose the Constitution, but on what particular grounds I am unable to say. General Nelson, Mr. John Page, Col. Bland, &c., are also opponents, but on what principle and to what extent I am equally at a loss to say. In general, I must note that I speak with respect to many of these names from information that may not be accurate, and merely as I should do in a free and confidential conversation with you. I have not yet heard Mr. Wythe's sentiments on the subject. Doctor McClurg, the other absent deputy, is a very strenuous defender of the new Government. Mr. Henry is the great adversary who will render the event precarious. He is, I find, with his usual address, working up every possible interest into a spirit of opposition.

It is worthy of remark, that whilst in Virginia, and some of the other States in the middle and Southern Districts of the Union, the men of intelligence, patriotism, property, and independent circumstances, are thus divided, all of this description,

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with a few exceptions, in the Eastern States, and most of the Middle States, are zealously attached to the proposed Constitution. In New England, the men of letters, the principal officers of Government, the Judges and lawyers, the Clergy, and men of property, furnish only here and there an adversary. It is not less worthy of remark, that in Virginia, where the mass of the people have been so much accustomed to be guided by their rulers on all new and intricate questions, they should on the present, which certainly surpasses the judgment of the greater part of them, not only go before, but contrary to their most popular leaders. And the phenomenon is the more wonderful, as a popular ground is taken by all the adversaries to the new Constitution. Perhaps the solution in both these cases would not be very difficult; but it would lead to observations too diffusive, and to you unnecessary. I will barely observe that the case in Virginia seems to prove that the body of sober and steady people, even of the lower order, are tired of the vicissitudes, injustice, and follies, which have so much characterized public measures, and are impatient for some change which promises stability and repose.

The proceedings of the present Assembly are more likely to cherish than remove this disposition. I find Mr. Henry has carried a Resolution for *prohibiting* the importation of Rum, brandy, and other ardent spirits; and if I am not misinformed, all manufactured leather, hats, and sundry other articles, are included in the *prohibition*. Enormous duties, at least, are likely to take place on the last and many other articles. A project of this sort, without the concurrence of the other States, is little short of madness. With such concurrence, it is not practicable without resorting to expedients equally noxious to liberty and economy. The consequences of the experiment in a single State as unprepared for manufactures as Virginia may easily be preconceived.

The Revised Code will not be resumed. Mr. Henry is an inveterate adversary to it. Col. Mason made a regular and powerful attack on the port Bill, but was left in a very small minority. I found at the last session that that regulation was

not to be shaken, though it certainly owes its success less to its principal merits than to collateral and casual considerations. The popular ideas are, that by favoring the collection of duties on imports, it saves the solid property from direct taxes; and that it injures Great Britain by lessening the advantage she has over other nations in the trade of Virginia.

We have no certain information from the three Southern States concerning the temper relative to the new Government. It is in general favorable, according to the vague accounts we have. Opposition, however, will be made in each. Mr. Wiley Jones and Governor Caswell have been named as opponents in North Carolina.

So few particulars have come to hand concerning the state of things in Georgia, that I have nothing to add, on that subject, to the contents of my last by Commodore Jones.

We have two or three States only yet met for Congress. As many more can be called in, when their attendance will make a quorum. It continues to be problematical whether the interregnum will not be spun out through the winter.

We remain in great uncertainty here with regard to a war in Europe. Reports and suspicions are strongly on the side of one. Such an event may be considered in various relations to this country. It is pretty certain, I think, that if the present lax state of our General Government should continue, we shall not only lose certain capital advantages which might be drawn from it, but be in danger of being plunged into difficulties, which may have a very serious effect on our future fortunes.

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TO GENERAL WASHINGTON.

NEW YORK, December 14, 1787.

DEAR SIR,—Along with this are enclosed a few copies of the latest gazettes, containing the additional papers in favor of the federal Constitution.

I find by letters from Richmond that the proceedings of the Assembly are, as usual, rapidly degenerating with the progress

of the Session; and particularly that the force opposed to the act of the Convention has gained the ascendance. There is still, nevertheless, a hope left that different characters and a different spirit may prevail in their successors, who are to make the final decision. In one point of view, the present Assembly may, perhaps, be regarded as pleading most powerfully the cause of the new government, for it is impossible for stronger proofs to be found than in their conduct of the necessity of some such anchor against the fluctuations which threaten to shipwreck our liberty.

I am, dear Sir, with the most sincere and perfect esteem, your affect<sup>e</sup> and obt humble servant.

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TO GENERAL WASHINGTON.

NEW YORK, December 26, 1787.

DEAR SIR,—I am just informed by a Delegate from New Hampshire that he has a letter from President Sullivan, which tells him that the Legislature had unanimously agreed to call a Convention, as recommended, to meet in February. The second Wednesday is the day, if I have not mistaken it. We have no further information of much importance from Massachusetts. It appears that Cambridge, the residence of Mr. Gerry, has left him out of the choice for the Convention, and put in Mr. Dana, formerly Minister of the United States in Europe, and another gentleman, both of them firmly opposed to Mr. Gerry's politics. I observe, too, in a Massachusetts paper, that the omission of Col. Mason's objection with regard to commerce, in the first publication of his objections, has been supplied. This will more than undo the effect of the mutilated view of them. New Jersey, the newspapers tell us, has adopted the Constitution unanimously. Our European intelligence remains perfectly as it stood at the date of my last.

With the most affectionate esteem and attachment, I am, D<sup>r</sup> Sir, your obt and very humble serv<sup>t</sup>.



## TO GENERAL WASHINGTON.

NEW YORK, January 14, 1788.

DEAR SIR,—The daily Advertiser of this date contains several important articles of information, which need only to be referred to. I enclose it, with a few other late papers. Neither French nor English packet is yet arrived, and the present weather would prevent their getting in if they should be on the coast. I have heard nothing of consequence from Massachusetts since my last. The accounts from New Hampshire continue to be as favorable as could be wished. From South Carolina we get no material information. A letter from Georgia of the 25th of December says that the Convention was getting together at Augusta, and that everything wore a federal complexion. North Carolina, it seems, has been so complaisant to Virginia as to postpone her Convention 'till July. We are without a Congress.

With perfect esteem and attachment, I remain, Dear Sir, your most obed<sup>t</sup> humble servant.

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TO GENERAL WASHINGTON.

NEW YORK, January 20, 1788.

DEAR SIR,—The Count de Moustier arrived here a few days ago, as successor to the Chevalier de la Luzerne. His passage has been so tedious that I am not sure that the despatches from Mr. Jefferson make any considerable addition to former intelligence. I have not yet seen them, but am told that this is the case. In general, it appears that the affairs of Holland are put into a pacific train. The Prussian troops are to be withdrawn, and the event settled by negotiations. But it is still possible that the war between the Russians and Turks may spread a general flame throughout Europe.

The intelligence from Massachusetts begins to be very ominous to the Constitution. The anti-federal party is reinforced

by the insurgents, and by the province of Maine, which apprehends greater obstacles to the scheme of a separate government from the new system than may be otherwise experienced; and, according to the prospect at the date of the last letters, there was very great reason to fear that the voice of that State would be in the negative. The operation of such an event on this State may easily be foreseen. Its Legislature is now sitting, and is much divided. A majority of the Assembly are said to be friendly to the merits of the Constitution. A majority of the Senators actually convened are opposed to a submission of it to a Convention. The arrival of the absent members will render the voice of that branch uncertain on the point of a Convention. The decision of Massachusetts either way will involve the result in this State. The minority in Pennsylvania is very restless under their defeat. If they can get an assembly to their wish, they will endeavour to undermine what has been done there. If backed by Massachusetts, they will probably be emboldened to make some more rash experiment. The information from Georgia continues to be favorable. The little we get from South Carolina is of the same complexion.

If I am not misinformed as to the arrival of some members for Congress, a quorum is at length made up.

With the most perfect esteem and attachment, I remain, dear sir, your obt and humble servant.

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TO GENERAL WASHINGTON.

NEW YORK, January 25, 1788.

DEAR SIR,—I have been favored since my last with yours of the 10th instant, with a copy of the Governor's letter to the Assembly. I do not know what impression the letter may make in Virginia. It is generally understood here that the arguments contained in it in favor of the Constitution are much stronger than the objections which prevented his assent. His arguments are forcible in all places, and with all persons. His

objections are connected with his particular way of thinking on the subject, in which many of the adversaries to the Constitution do not concur.

The information from Boston by the mail on the evening before last has not removed our suspense. The following is an extract of a letter from Mr. King, dated on the 16th instant:

"We may have 360 members in our Convention. Not more than 330 have yet taken their seats. Immediately after the settlement of elections, the Convention resolved that they would consider and freely debate on each paragraph, without taking a question on any of them individually; and that on the question whether they would ratify, each member should be at liberty to discuss the plan at large. This Resolution seems to preclude the idea of amendments; and hitherto the measure has not been suggested. I, however, do not, from this circumstance, conclude that it may not hereafter occur. The opponents of the Constitution moved that Mr. Gerry should be requested to take a seat in the Convention, to answer such enquiries as the Convention should make concerning facts which happened in the *passing* of the Constitution. Although this seems to be a very irregular proposal, yet, considering the jealousies which prevail with those who made it, who are certainly not the most enlightened part of the Convention, and the doubt of the issue had it been made a trial of strength, several friends of the Constitution united with the opponents, and the resolution was agreed to, and Mr. Gerry has taken his seat. To-morrow, we are told, certain enquiries are to be moved for by the opposition, and that Mr. Gerry, under the idea of stating facts, is to state his reasons, &c. This will be opposed, and we shall, on the division, be able to form some idea of our relative strength. From the men who are in favor of the Constitution every reasonable explanation will be given, and arguments really new, and in my judgment most excellent, have been and will be produced in its support. But what will be its fate, I confess I am unable to discern. No question ever classed the people of this State in a more extraordinary manner, or with more apparent firmness."

A Congress of seven States was made up on Monday. Mr. C. Griffin has been placed in the chair. This is the only step yet taken.

I remain, with the highest respect and attachment, yours affectionately.

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TO GENERAL WASHINGTON.

NEW YORK, January 28, 1788.

DEAR SIR,—The information which I have by the Eastern mail rather increases than removes the anxiety produced by the last. I give it to you as I have received it, in the words of Mr. King:

“BOSTON, 20 January, 1788.

“Our Convention proceeds slowly. An apprehension that the liberties of the people are in danger, and a distrust of men of property or education, have a more powerful effect upon the minds of our opponents than any specific objections against the Constitution. If the opposition was grounded on any precise points, I am persuaded that it might be weakened, if not entirely overcome. But any attempt to remove their fixed and violent jealousy seems hitherto to operate as a confirmation of that baneful passion. The opponents affirm to each other that they have an unalterable majority on their side. The friends doubt the strength of their adversaries, but are not entirely confident of their own. An event has taken place relative to Mr. Gerry, which, without great caution, may throw us into confusion. I informed you by the last post on what terms Mr. Gerry took a seat in the Convention. Yesterday, in the course of Debate on the Construction of the Senate, Mr. G., *unasked*, informed the Convention that he had some information to give the Convention on the subject then under discussion. Mr. Dana and a number of the most respectable members remarked upon the impropriety of Mr. G.’s conduct. Mr. G. rose with a view to justify himself. He was immediately prevented by a number

of objectors. This brought on an irregular conversation whether Mr. G. should be heard. The hour of adjournment arrived, and the President adjourned the House. Mr. Gerry immediately charged Mr. Dana with a design of injuring his reputation by partial information, and preventing his having an opportunity to communicate important truths to the Convention. This charge drew a warm reply from Mr. Dana. The members collected about them, took sides as they were for or against the Constitution, and we were in danger of the utmost confusion. However, the gentlemen separated, and I suppose to-morrow morning will renew the discussion before the Convention. I shall be better able to conjecture the final issue by next post."

There are other letters of the same date from other gentlemen on the spot, which exhibit rather a more favorable prospect. Some of them, I am told, are even flattering. Accounts will always vary in such cases, because they must be founded on different opportunities of remarking the general complexion, where they take no tincture from the opinions or temper of the writer.

I remain, dear Sir, with the most perfect esteem and attachment, your obt serv<sup>t</sup>.

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TO GENERAL WASHINGTON.

NEW YORK, February 1, 1788.

DEAR SIR,—The eastern mail which arrived yesterday brought me a letter from Mr. King, of which a copy follows:

"Our prospects are gloomy, but hope is not entirely extinguished. Gerry has not returned to the Convention, and I think will not again be invited. We are now thinking of amendments to be submitted, not as a condition of our assent and ratification, but as the opinion of the Convention subjoined to their ratification. This scheme may gain a few members, but the issue is doubtful."

In this case, as in the last, Mr. King's information is accom-

panied with letters from other persons on the spot, which dwell more on the favorable side of the prospect. His anxiety on the subject may give a greater activity to his fears than to his hopes, and he would naturally lean to the cautious side. These circumstances encourage me to put as favorable a construction on his letter as it will bear.

A vessel is arrived here from Charleston, which brings letters that speak with confidence of an adoption of the federal Constitution in that State, and make it very probable that Georgia had actually adopted it. Some letters from North Carolina speak a very equivocal language as to the prospect there.

The French Packet arrived yesterday. As she has been out since early in November, little news can be expected by her. I have not yet got my letters, if there be any for me, and I have heard the contents of no others.

I remain, Dear Sir, with the utmost respect and attachment, your affectionate serv<sup>t</sup>.

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TO GENERAL WASHINGTON.

NEW YORK, February 8, 1788.

DEAR SIR,—The prospect in Massachusetts seems to brighten, if I view in the true light the following representation of it: "This day, (January 30,) for the first time, our President, Mr. Hancock, took his seat in Convention, and we shall probably terminate our business on Saturday or Tuesday next. I cannot predict the issue, but our hopes are increasing. If Mr. Hancock does not disappoint our present expectations, our wishes will be gratified." Several reflections are suggested by this paragraph which countenance a favorable inference from it. I hope, from the rapid advance towards a conclusion of the business, that even the project of recommendatory alterations has been dispensed with.

The form of the ratification of Georgia is contained in one

of the papers herewith enclosed. Every information from South Carolina continues to be favorable. I have seen a letter from North Carolina, of pretty late date, which admits that a very formidable opposition exists, but leans towards a federal result in that State. As far as I can discover, the state of the question in North Carolina is pretty analogous to that in Virginia. The body of the people are better disposed than some of a superior order. The Resolutions of New York for calling a convention appear, by the paper, to have passed by a majority of two only in the House of Assembly. I am told this proceeded in some degree from an injudicious form in which the business was conducted, and which threw some of the federalists into the opposition.

I am just informed by a gentleman who has seen another letter from Boston, of the same date with mine, that the plan of recommendatory alterations has not been abandoned, but that they will be put into a harmless form, and will be the means of saving the Constitution from all risk in Massachusetts.

With the highest respect and attachment, I remain, Dear Sir, yr affect<sup>o</sup> and hum<sup>le</sup> serv<sup>t</sup>.

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TO GENERAL WASHINGTON.

NEW YORK, February 11, 1788.

DEAR SIR,—The newspaper enclosed, with the letter which follows, comprises the information brought me by the mail of yesterday:

“BOSTON, Feb<sup>y</sup> 3.

“I enclose a newspaper containing the propositions communicated by Mr. Hancock to the Convention on Thursday last. Mr. Samuel Adams, who, contrary to his own sentiments, has been hitherto silent in Convention, has given his public and explicit approbation of Mr. Hancock’s propositions. We flatter ourselves that the weight of these two characters will ensure our success, but the event is not absolutely certain. Yesterday

a committee was appointed, on the motion of a doubtful character, to consider the propositions of Mr. Hancock, and to report to-morrow afternoon. We have a majority of federalists on this committee, and flatter ourselves the result will be favorable.

"P. S. We shall probably decide on thursday or friday next, when our numbers will amount to about 363."

With greatest esteem and attachment, I am, D<sup>r</sup> Sir, your obt and affect<sup>d</sup> serv<sup>t</sup>.

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TO GENERAL WASHINGTON.

NEW YORK, February 15, 1788.

DEAR SIR,—I have at length the pleasure to enclose you the favorable result of the Convention at Boston. The amendments are a blemish, but are in the least offensive form. The minority, also, is very disagreeably large, but the temper of it is some atonement. I am assured by Mr. King that the leaders of it, as well as the members of it in general, are in good humor, and will countenance no irregular opposition, there or elsewhere. The Convention of New Hampshire is now sitting. There seems to be no question that the issue there will add a *seventh* pillar, as the phrase now is, to the federal Temple.

With the greatest respect and attachment, I am, Dear Sir, yrs.

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TO THOMAS JEFFERSON.

NEW YORK, February 19th, 1788.

DEAR SIR,—

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The public here continues to be much agitated by the proposed federal Constitution, and to be attentive to little else. At the date of my last, Delaware, Pennsylvania, and New Jersey, had adopted it. It has been since adopted by Connecticut,



Georgia, and Massachusetts. In the first, the minority consisted of 40 against 127. In Georgia, the adoption was unanimous. In Massachusetts, the conflict was tedious and the event extremely doubtful. On the final question the vote stood 187 against 168, a majority of 19 only being in favor of the Constitution.

The prevailing party comprized, however, all the men of abilities, of property, and of influence. In the opposite multitude there was not a single character capable of uniting their wills or directing their measures. It was made up, partly of deputies from the province of Maine, who apprehended difficulties from the new Government to their scheme of separation, partly of men who had espoused the disaffection of Shay's, and partly of ignorant and jealous men, who had been taught, or had fancied, that the Convention at Philadelphia had entered into a conspiracy against the liberties of the people at large, in order to erect an aristocracy for the rich, the *well born*, and the men of Education. They had no plan whatever. They looked no farther than to put a negative on the Constitution and return home. The amendments, as recommended by the Convention, were, as I am well informed, not so much calculated for the minority in the Convention, on whom they had little effect, as for the people of the State. You will find the amendments in the newspapers which are sent from the office of foreign affairs. It appears, from a variety of circumstances, that disappointment had produced no asperity in the minority, and that they will probably not only acquiesce in the event, but endeavour to reconcile their constituents to it. This was the public declaration of several who were called the leaders of the party.

The minority of Connecticut behaved with equal moderation. That of Pennsylvania has been extremely intemperate, and continues to use a very bold and menacing language. Had the decision in Massachusetts been adverse to the Constitution, it is not improbable that some very violent measures would have followed in that State. The cause of the inflammation, however, is much more in their State factions than in the system proposed by the Convention. New Hampshire is now deliber-

ating on the Constitution. It is generally understood that an adoption is a matter of certainty. South Carolina and Maryland have fixed on April or May for their Conventions. The former, it is currently said, will be one of the ratifying States. Mr. Chase, and a few others, will raise a considerable opposition in the latter. But the weight of personal influence is on the side of the Constitution, and the present expectation is, that the opposition will be outnumbered by a great majority. This State is much divided in its sentiments. Its Convention is to be held in June. The decision of Massachusetts will give the turn in favor of the Constitution, unless an idea should prevail, or the fact should appear, that the voice of the State is opposed to the result of its Convention. North Carolina has put off her Convention till July. The State is much divided, it is said.

The temper of Virginia, as far as I can learn, has undergone but little change of late. At first, there was an enthusiasm for the Constitution. The tide next took a sudden and strong turn in the opposite direction. The influence and exertions of Mr. Henry and Col. Mason, and some others, will account for this. Subsequent information again represented the Constitution as regaining, in some degree, its lost ground. The people at large have been uniformly said to be more friendly to the Constitution than the Assembly. But it is probable that the dispersion of the latter will have a considerable influence on the opinions of the former. The previous adoption of nine States must have a very persuasive effect on the minds of the opposition, though I am told that a very bold language is held by Mr. Henry and some of his partizans. Great stress is laid on the self-sufficiency of that State, and the prospect of external props is alluded to.

Congress have done no business of consequence yet, nor is it probable that much more of any sort will precede the event of the great question before the public.

The Assembly of Virginia have passed the district Bill, of which I formerly gave you an account. There are 18 districts, with 4 new Judges, Mr. Gabriel Jones, Richard Parker, S<sup>t</sup> George Tucker, and Jo<sup>s</sup>. Prentis. They have reduced much the

taxes, and provided some indulgences for debtors. The question of British debts underwent great vicissitudes. It was, after long discussion, resolved by a majority of 30, against the utmost exertions of Mr. Henry, that they should be paid as soon as the other States should have complied with the Treaty. A few days afterwards he carried his point by a majority of 50, that Great Britain should first comply.

Adieu. Y<sup>rs</sup> affect<sup>l</sup>.

P. S. Mr. St. John has given me a very interesting description of a "System of Nature," lately published at Paris. Will you add it for me?

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TO GENERAL WASHINGTON.

NEW YORK, February 20, 1788.

DEAR SIR,—I am just favored with yours of the 7th instant, and will attend to your wishes as to the political essays in the press.

I have given notice to my friends in Orange that the County may command my services in the Convention if it pleases. I can say with great truth, however, that in this overture I sacrifice every private inclination to considerations not of a selfish nature. I foresee that the undertaking will involve me in very laborious and irksome discussions; that public opposition to several very respectable characters, whose esteem and friendship I greatly prize, may unintentionally endanger the subsisting connection; and that disagreeable misconstructions, of which samples have been already given, may be the fruit of those exertions which fidelity will impose. But I have made up my determination on the subject; and if I am informed that my presence at the election in the County be indispensable, shall submit to that condition also; although it is my particular wish to decline it, as well to avoid apparent solicitude on the occasion as a journey of such length at a very unpleasant season.

I had seen the extract of your letter to Col. Carter, and had supposed, from the place where it first made its appearance, that its publication was the effect of the zeal of a correspondent. I cannot but think, on the whole, that it may have been of service, notwithstanding the scandalous misinterpretations of it which have been attempted. As it has evidently the air of a paragraph to a familiar friend, the omission of an argumentative support of the opinion given will appear to no candid reader unnatural or improper.

We have no late information from Europe except through the English papers, which represent the affairs of France as in the most ticklish state. The facts have every appearance of authenticity, and we wait with great impatience for the packet which is daily expected. It can be little doubted that the patriots have been abandoned, whether from impotency in France, misconduct in them, or from what other cause, is not altogether clear. The French apologists are visibly embarrassed by the dilemma of submitting to the appearance of either weakness or the want of faith. They seem generally to allege that their engagements being with the Republic, the nation could not oppose the regular authority of the country by supporting a single province, or, perhaps, a party in it only. The validity of this excuse will depend much on the real connection between France and the patriots, and the assurances given as an encouragement to the latter. From the British King's speech, it would seem that France had avowed her purpose of supporting her Dutch friends, though it is *possible* her menaces to England might be carried further than her real promises to the patriots. All these circumstances, however, must have galled the pride of France, and I have little doubt that a war will prove it as soon as her condition will admit of it; perhaps she may be the sooner forced into it on account of her being in a contrary situation.

I hear nothing yet from the Convention of New Hampshire.

I remain, yours most respectfully and affectionately,

TO EDMUND PENDLETON.

NEW YORK, Feb<sup>y</sup> 21st. 1788.

DEAR SIR,—

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Your representation of the politics of the State coincides with the information from every other quarter. Great fluctuations and divisions of opinion naturally result in Virginia from the causes which you describe, but they are not the less ominous on that account. I have, for some time, been persuaded that the question on which the proposed Constitution must turn is the simple one, whether the Union shall or shall not be continued. There is, in my opinion, no middle ground to be taken. The opposition with some has disunion assuredly for its object, and with all for its real tendency.

Events have demonstrated that no coalition can ever take place in favor of a new plan among the adversaries to the proposed one. The grounds of objection among the non-signing members of the Convention are by no means the same. The disapproving members who were absent, but who have since published their objections, differ irreconcilably from each of them. The writers against the Constitution are as little agreed with one another; and the principles which have been disclosed by the several minorities, where the Constitution has not been unanimously adopted, are as heterogeneous as can be imagined. That of Massachusetts, as far as I can learn, was averse to any Government that deserved the name, and, it is certain, looked no farther than to reject the Constitution *in toto* and return home in triumph. The men of abilities, of property, of character, with every judge, lawyer of eminence, and the clergy of all sects, were, with scarce an exception deserving notice, as unanimous in that State as the same description of characters are divided and opposed to one another in Virginia. This contrast does not arise from circumstances of local interest, but from causes which will, in my opinion, produce much regret hereafter in the opponents in Virginia, if they should succeed in their opposition.

New Hampshire is now in Convention. It is expected that

NB /

the result will be in favor of the Constitution. Rhode Island takes no notice of the matter. New York is much divided. | The weight of abilities and of property is on the side of the Constitution. She must go with the Eastern States, let the direction be what it may. By a vessel just from Charleston, we understand that opposition will be made there. Mr. Lowndes is the leader of it.

A *British* packet brings a picture of affairs in France which indicates some approaching events in that Kingdom, which may almost amount to a Revolution in the form of its Government. The authority is in itself suspicious; but it coincides with a variety of proofs that the spirit of liberty has made a progress which must lead to some remarkable conclusion of the scene. The Dutch patriots seem to have been the victims, partly of their own folly, and partly of something amiss in their friends. The present state of that Confederacy is, or ought to be, a very emphatic lesson to the United States. The want of union and a capable Government is the source of all their calamities, and particularly of that dependence on foreign powers which is as dishonorable to their character as it is destructive of their tranquillity.

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TO EDMUND PENDLETON.

NEW YORK, March 3d, 1788.

DEAR SIR,—The Convention of New Hampshire have disappointed much the general expectation. Instead of adopting the Constitution, they have adjourned, without any final decision, until June, this expedient being found necessary to prevent a rejection. It seems that a majority of three or four members would have voted in the negative, but in this majority were a number who had been proselyted by the discussions, but were bound by positive instructions. These concurred with the federalists in the adjournment, and carried it by a majority of fifty-seven against forty-seven. It is not much doubted that, in the event, New Hampshire will be among the adopting States. But

the influence of this check will be very considerable in this State, (New York,) and in several others. I have enquired whether June was preferred for the second meeting from any reference to Virginia or New York, and am informed that it was merely an accommodation to the intermediate annual elections and Courts.

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TO GENERAL WASHINGTON.

NEW YORK, March 3, 1788.

DEAR SIR,—The Convention of New Hampshire has afforded a very disagreeable subject of communication. It has not rejected the Constitution, but it has failed to adopt it. Contrary to all calculations that had been made, it appeared, on a meeting of the members, that a majority of three or four was adverse to the object before them, and that, on a final question on the merits, the decision would be in the negative. In this critical state of things, the federalists thought it best to attempt an adjournment; and having proselyted some of the members who were positively instructed against the Constitution, the attempt succeeded by a majority of 57 against 47, if my information as to the numbers be correct. It seems to be fully expected that some of the instructed members will prevail on their towns to unfetter them, and that, in the event, New Hampshire will be among the adopting States. The mischief elsewhere will, in the mean time, be of a serious nature. The second meeting is to be in June. This circumstance will probably be construed in Virginia as making contemporary arrangements with her. It is explained to me, however, as having reference merely to the conveniency of the members, whose attendance at their annual elections and courts would not consist with an earlier period. The opposition, I understand, is composed precisely of the same description of characters with that of Massachusetts, and stands contrasted to all the wealth, abilities, and respectability of the State.

I am preparing to set out for Orange, and promise myself the pleasure of taking Mount Vernon in the way.

I remain, yours most respectfully and affectionately.

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TO GENERAL WASHINGTON.

ORANGE, April 10, 1788.

DEAR SIR,—Having seen a part only of the names returned for the Convention, and being unacquainted with the political characters of many of them, I am a very incompetent prophet of the fate of the Constitution. My hopes, however, are much encouraged by my present conjectures. Those who have more data for their calculations than I have augur a flattering issue to the deliberations of June. I find that Col. Nicholas, who is among the best judges, thinks, on the whole, that a majority in the Convention will be on the list of federalists; but very properly takes into view the turn that may be given to the event by the weight of Kentucky, if thrown into the wrong scale, and by the proceedings of Maryland and South Carolina, if they should terminate in either a rejection or postponement of the question. The impression on Kentucky, like that on the rest of the State, was at first answerable to our wishes; but, as elsewhere, the torch of discord has been thrown in, and has found the materials but too inflammable. I have written several letters since my arrival to correspondents in that district, with a view to counteract anti-federal machinations. I have little expectation, however, that they will have much effect, unless the communications that may go from Mr. Brown in Congress should happen to breathe the same spirit; and I am not without apprehensions that his mind may have taken an unlucky tincture from the difficulties thrown in the way of the separation of the District, as well as from some antecedent proceedings of Congress. I have taken the liberty of writing, also, to a friend in South Carolina, on the critical importance of a



right decision there to a favorable one here. The enclosed letter, which I leave unsealed, will shew you that I am doing the same with respect to Maryland. Will you be so good as to put a wafer in it, and send it to the post office for Georgetown, or to change the address to Annapolis, if you should have reason to conclude that Mr. Carroll will be there? I have written a similar letter to Doctor McHenry. The difference between even a postponement and adoption in Maryland may, in the nice balance of parties here, possibly give a fatal advantage to that which opposes the Constitution.

I have done nothing yet in preparing answers to the queries. As facts are to be ascertained, as well as opinions formed, delay will be of course counted upon.

With every sentiment of respect and attachment, I remain,  
Dear Sir, your ob<sup>t</sup> and humble ser<sup>t</sup>.

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TO EDMUND RANDOLPH.

ORANGE, Ap<sup>l</sup> 10th, 1788.

MY DEAR FRIEND,—I view the amendments of Massachusetts pretty nearly in the same light that you do. They were meant for the people at large, not for the minority in the Convention. The latter were not affected by them, their objections being levelled against the very essence of the proposed Government. I do not see that the 2<sup>d</sup> amendment, if I understand its scope, can be more exceptionable to the Southern States than the others. I take it to mean that the number of Representatives shall be limited to two hundred, who will be apportioned from time to time according to a census; not that the apportionment first made, when the Representatives amount to that number, shall be perpetual. The 9<sup>th</sup> amendment, I have understood, was made a very serious point of by S. Adams.

I do not know of anything in the new Constitution that can change the obligations of the public with regard to the old money. The principle on which it is to be settled seems to be

equally in the power of that as of the existing one. The claim of the Indiana Company cannot, I should suppose, be any more validated by the new system than that of all the creditors and others who have been aggrieved by unjust laws. You do not mention what part of the Constitution could give colour to such a doctrine. The condemnation of retrospective laws, if that be the part, does not appear to me to admit, on any principle, of such a retrospective construction. As to the religious test, I should conceive that it can imply at most nothing more than that, without that exception, a power would have been given to impose an oath, involving a religious test as a qualification for office. The constitution of necessary offices being given to the Congress, the proper qualifications seem to be evidently involved. I think, too, there are several other satisfactory points of view in which the exception might be placed.

I shall be extremely happy to see a coalition among all the real federalists. Recommendatory alterations are the only ground that occurs to me. A conditional ratification or a second Convention appears to me utterly irreconcilable, in the present state of things, with the dictates of prudence and safety. I am confirmed by a comparative view of the publications on the subject, and still more of the debates in the several Conventions, that a second experiment would be either wholly abortive, or would end in something much more remote from your ideas, and those of others who wish a salutary Government, than the plan now before the public. It is to be considered, also, that besides the local and personal pride that would stand in the way, it could not be a very easy matter to bring about a reconsideration and rescision of what will certainly have been done in six, and probably eight States, and in several of them by unanimous votes. Add to all this the extreme facility with which those who secretly aim at disunion (and there are probably some such in most, if not all the States) will be able to carry on their schemes, under the mask of contending for alterations, popular in some places, and known to be inadmissible in others. Every danger of this sort might be justly dreaded from such men as this State and New York only

could furnish, playing for such a purpose into each others' hands. The declaration of Henry, mentioned in your letter, is a proof to me that desperate measures will be his game. If report does not more than usually exaggerate, Mason, also, is ripening fast for going every length. His licentiousness of animadversion, it is said, no longer spares even the moderate opponents of the Constitution.

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TO THOMAS JEFFERSON.

ORANGE, April 22d. 1788.

DEAR SIR,—

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The proposed Constitution still engrosses the public attention. The elections for the Convention here are but just over and promulged. From the returns, (excepting those from Kentucky, which are not yet known,) it seems probable, though not absolutely certain, that a majority of the members elect are friends to the Constitution. The superiority of abilities, at least, seems to lie on that side. The characters of most note which occur to me are marshaled thus: For the Constitution, Pendleton, Wythe, Blair, Innes, Marshall, Doctor W. Jones, G. Nicholas, Wilson Nicholas, Gab<sup>l</sup> Jones, Thomas Lewis, F. Corbin, Ralph Wormley, Jr., White of Frederick, General Gates, General A. Stephens, Archibald Stuart, Zach<sup>r</sup> Johnson, Doctor Stuart, Parson Andrews, H. Lee, Jr., Bushrod Washington, considered as a young gentleman of talents; against the Constitution, Mr. Henry, Mason, Harrison, Grayson, Tyler, M. Smith, W. Ronald, Lawson, Bland, Wm. Cabell, Dawson.

The Governor is so temperate in his opposition, and goes so far with the friends of the Constitution, that he cannot properly be classed with its enemies. Monroe is considered by some as an enemy, but I believe him to be a friend. There are other individuals of weight whose opinions are unknown to me. R. H. Lee is not elected. His brother, F. L. Lee, is a warm friend to the Constitution, as I am told; but, also, is not elected. So are John and Mann Page.

The adversaries take very different grounds of opposition. Some are opposed to the substance of the plan; others, to particular modifications only. Mr. Henry is supposed to aim at disunion. Col. Mason is growing every day more bitter and outrageous in his efforts to carry his point, and will probably, in the end, be thrown by the violence of his passions into the politics of Mr. Henry. The preliminary question will be, whether previous alterations shall be insisted on or not. Should this be carried in the affirmative, either a conditional ratification or a proposal for a new Convention will ensue. In either event, I think the Constitution and the Union will be both endangered. It is not to be expected that the States which have ratified will reconsider their determinations, and submit to the alterations prescribed by Virginia. And if a second Convention should be formed, it is as little to be expected that the same spirit of compromise will prevail in it as produced an amicable result to the first. It will be easy, also, for those who have latent views of disunion, to carry them on under the mask of contending for alterations, popular in some, but inadmissible in other parts of the United States.

The real sense of the people of this State cannot be easily ascertained. They are certainly attached, and with warmth, to a continuance of the Union, and I believe a large majority of the most intelligent and independent are equally so to the plan under consideration. On a geographical view of them, almost all the Counties in the Northern Neck have elected federal deputies. The Counties on the South side of James River have pretty generally elected adversaries to the Constitution. The intermediate district is much chequered in this respect. The Counties between the blue ridge and the Alleghany have chosen friends to the Constitution, without a single exception. Those westward of the latter have, as I am informed, generally though not universally, pursued the same rule. Kentucky it is supposed will be divided.

Having been in Virginia but a few weeks, I can give you little account of other matters, and none of your private affairs or connections, particularly of your two nephews.

The winter here, as everywhere else in the United States, was very severe, which, added to short crops of corn, threatened a great scarcity and a high price. It is found, however, that neither of these evils has taken place. Corn may be purchased for 2 dollars, and even 10s. per barrel. Tobacco is as low at Fredericksburg as 18s. pr c., and not higher at Richmond than 22 or 23s. There is at present a very promising spring, especially in the article of fruit. The night before last was so cold as to produce an alarm for the vegetation of all sorts, but it does not appear that anything less vulnerable than young cucumbers had been injured.

I shall ask the favor of Mr. Griffin to send you by Mr. Paradise, or if he should be gone by some other hand, the Debates of the Conventions in Pennsylvania and Massachusetts, and any other publications worth your reading.

I am, dear sir, your affectionate friend and serv<sup>t</sup>.

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ADDITIONAL MEMORANDUM FOR THE CONVENTION OF VIRGINIA  
IN 1788, ON THE FEDERAL CONSTITUTION.

*Examples shewing defect of mere Confederacies.*

Amphictyonic League. See

Lycian do.

Achæan do.

German do.

Swiss do.

Belgic do.

United Colonies. See

Albany project. See Albany papers.

Articles of Confederation. See

Hanseatic do.

Union of Calmar do.

England and Scotland formed in 1706, by 32 Commissioners

appointed for each Kingdom; they sat from April 18th to middle of July; they were appointed by crown, by acts of two parliaments; restrained from treating of Religion.

The Scotch had got the notion of a *federal* Union, like Holland and Switzerland. England opposed decidedly; among other reasons, because of different Parliaments; either could break it when pleased.

Many had despaired of Union, as Burnet himself.

In Scotland, opposed violently, particularly by those who were for a new revolution, as Union fatal bar to it; carried in parliament by inconsiderable majority. The presbyterians brought into opposition by persuasion that religious rights would be in danger; this argument used most by those known to be most adverse to that Religion, especially Dutches of Hamilton and Son, who, as next in succession, hoped for Crown, if separate Kingdom.

General arguments against Union in Scotland:

1. Antiquity and dignity of Kingdom to be given up and sold.

2. Departing from independent State, and to be swallowed by Eng<sup>d</sup>.

3. Would be outvoted in all questions by Eng<sup>d</sup>'s superiority in Parl<sup>t</sup>.\*

4. Scotland no more be regarded by foreign nations.

5. Danger to the Kirk.

Finally, Scotch parliament prevailed on to annex conditions which advisers thought would never be agreed to, and thus the plan be defeated.

Opposers of Union, finding majority against them, endeavoured to raise a storm out of doors; petitions, addresses, and remonstrances came up from all quarters, instigated by minority; even riots excited about parliament House.

In England, alarm also for Religion, and act passed to secure it. House of Commons unanimous; Lords, 50 and 20.

\* Above 30,000 voters in some Counties of Eng<sup>d</sup>; 33,000 only in all Scotland.—Dalrymple F. P.

Writ of error lies from B. R., in Ireland, to B. R., in Eng<sup>d</sup>.—Blackst.

Do. do., from Wales to B. R.—Jenkins Cent., and 1 W. and M., c. 27.

As to Scotland into Parliament, see 6 Ann., c. 26, sect. 12.

Difficulty of drawing line between laws apparent in Act of Union between Eng<sup>d</sup> and Scotland.

“Art. 18. The laws concerning regulation of trade, Customs, &c. See abridgm<sup>t</sup> by Cay., vol. 2, 384, under Scotland.” For line between Courts, see Art. 19.

### *Sweden.*

Two remarkable circumstances: 1. *Citizens* elect by votes the multiples of their property; some rich merchants have several hundred votes. 2. Country gentlemen, between nobles and peasants, have no votes in electing the latter order; are not represented nor eligible at all. Constitution, prior to 1772, alternately Monarchical and aristocratic. Foreign powers had chief agency in producing the Revolution of 1772. The King had, about that time, only two companies of guards; [power of King reduced to its lowest ebb about the time of the Revolution.—Sheridan.] [The power of peasants predominant originally; hence alternate anarchy and tyranny.—Id.] On death of Charles XII, all prerogatives of Executive abolished; hence legislative soon exercised Executive and Judicial power both; any 3 out of 4 houses competent to legislation. The Revolution of '72, owing to unpopularity of diet, owing to abuse of power from union of Executive and Judicial with Legislative, factions, venality, and foreign influence. The people favoured the enterprize of the King.

### *Denmark.*

The change in 1660, produced by the aversion to the nobility, who, as feudal lords, had almost all power, the peasants being slaves to them; the two other orders being the clergy and commons or representatives of towns. The *Clergy* were the great

agents in the Revolution, and the King rather passive. Lord Molesworth saith Denmark differed little from an aristocracy when it become an absolute Monarchy.

*France.*

The 3<sup>d</sup> estate was composed, according to Robertson, of Representatives of Cities, &c., within the *King's demesne only*; and the tillers of the earth, the greatest body in all countries, nothing, or represented by the Nobles.

*Spain.*

Peasants never represented in Cortes.—Quere.

*Poland.*

153 Senators; about 200 Nuncios.

Examples of hostile consequences of rival communities not united by one Government.

All the antient and modern Confederacies.

Saxon Heptarchy.<sup>(a)</sup> England and Scotland.<sup>(b)</sup> G. B. and Ireland. England and Wales. Antient Republics of Italy before Roman Empire. Ditto after dissolution of ditto.

Union at Calmar in 1393—7, of Sweden, Denmark, and Norway, formed by Margaret, Queen of the two last, and elected, also, Queen of the former. She convoked the deputies of the 3

(<sup>a</sup>) [Anno 827.] "Thus were united all the Kingdoms of the Heptarchy in one great State, near four hundred years after 1<sup>st</sup> arrival of Saxons in Britain, [and 250 after establishment:] and the fortunate arms, &c., of Egbert, [King of Wessex.] at last effected what had been so often attempted in vain by so many Princes."—Hume, Vol. 1, p. 59. "Kent, Northumberland, and Mercia, had successively aspired to general dominion."—Id., p. 60.

(<sup>b</sup>) Question in 1713 in House of Lords for dissolving Union as not answering, and ruinous to Scotland. Carried in negative by 4 voices only.—Deb. Peers, 11, 313; Burg., 3, 360. Harrington (pol. Aphorisms. 49, 50, 51, page 517) pronounced the Union destructive to both England and Scotland. Heptarchy reduced to two after some ages, Mercia and W. Saxons; and then one, (Egbert,) England and Wales prior to Union under Edward I, and more fully under H. VIII. See Kennet, vol. 1, page 37, for an apt and short quotation as to Heptarchy.



States General at Calmar; 40 from each attended and formed the Union of Treaty; main argument used by the Queen—the contentions and wars when disunited.

Union consisted of three principal articles:

1. That the three Kingdoms, which was each elective, should have the same King, to be elected by turns out of each, with an exception, however, in favour of offspring whom the three States might elect.

2. The King to divide his residence by turns among each, and to spend in each the revenues of each Crown.

3. The most important, that each should keep its particular Senate, customs, privileges, Governments, magistrates, Generals, Bishops, and even troops and garrisons, to be taken from respective Kingdoms, so that the King should never be allowed to employ subjects of one in another, being mutually regarded as strangers.

This Union, thus *imperfect*, increased their mutual animosity, and laid the foundation for fresh and more bitter animosities and miseries.

Examples of invasions of defenceless coasts. Danger if disunited: 1. Of foreign invasion by sea. 2. Of Eastern invasion on S. States. Such more formidable than by land, because more sudden and easily supported by supplies.

Romans invade England.	Egyptians and Phœnicians invade Greece.
(a) Saxons invade England.	Greece do Italy.
Danes do “	Carthaginians do Italy and Spain.
Normans do “	Visigoths from Spain. Barbary.
(b) Danes do France.	
English. Ireland.	
Europeans. America.	
Do East Indies.	
Do Africa.	

Countries without Navy conquerable in proportion to extent of coast. England more frequently and thoroughly conquered than France or Spain.

(\*) See Hume Hist., vol. 1.

(b) Do., vol. 1, p. 69—70.

*Sparta.*

2 Kings  
28 Senators.

} The two jointly forming a council, with  
power of life and death.

Senate.

1. For life.

2. Vacancies filled by popular election, out of candidates 60 years old.

3. Had right of convoking and proposing to Assemblies; as had Kings.\*

4. Decrees of no force till ratified by people.

Kings were for life; in other respects like 2 Consuls; Generals during war; presided in Assemblies and public sacrifices in peace; could propose to Assemblies; dissolve them when convoked by Kings; but could do nothing without consent of the nation; the 2 Kings always jealous, and on ill terms with each other; were watched by *field deputies* in war.

*People.*

Assemblies general and particular; former of all Citizens, latter of Citizens of Sparta alone; had power of peace and war, treaties, great affairs, and election of magistrates.

Ephori, chosen annually by the people, and concurred in their behalf with Kings and Senate; over both when they had authority.

They had more authority than Tribunes; presided at elections of Magistrates; demanded account of the administration; could imprison Kings; had the administration of money; superintended Religion; in fine, directed everything.

Lands divided in 39,000 shares.

*Carthage.*

500 years, says Aristotle, without any considerable sedition or tyrant. 3 different authorities—Sefletes, Senate, people.

Sefletes, like consuls, and annual; does not appear by whom chosen; assembled Senate, presiding; proposing and collecting

\* Usurped this right.

the votes; presided, also, in judgments of most important affairs, sometimes commanded armies; at going out were made Pretors.

Senate, composed of persons qualified by age, experience, birth, riches; were the Council of State, and the soul of all public deliberation; number not known; must have been great, since the 100 drawn out of it. Senate treated of great affairs, read letters of Generals, rec<sup>d</sup> complaints of provinces, gave audiences to ambassadors, and decided peace and war. When Senate unanimous, decided finally; in case of division, people decided. Whilst Senate retained its authority, says Polybius, wisdom and success marked everything.

People, at first, gave way to Senate; at length, intoxicated by wealth and conquests, they assumed all power; then cabals and factions prevailed, and were one of the principal causes of the ruin of the State.

Tribunal of 100, composed of 104 persons, were in place of Ephori, at Sparta, according to Aristotle, and instituted to balance the Generals and the Senate; with this difference, that here the Council was perpetual; Generals accounted to them.

Tribunal of 5, taken out of 100 above; duration of office unknown; like the Council of 10 at Venice; filled vacancies, even in Senate; had great power, but no salaries; became tyrannical.

### *Rome.*

\* Gracchi transferred the criminal jurisdiction to equestrian order.

† Ambassadors taken from their own body.—Code d'Humanite.

Power of Senate, (exclusive of People):

1. Care of Religion. 2. To regulate the provinces. 3.\* Over public treasury and expences of Government, with appointment of stipends to Generals; number of troops, and provisions and cloathing for armies. 4.† Appointed with such instructions, and received ambassadors, and gave such answers as they thought fit. 5. Decreed thanksgivings and conferred honor of triumphs. 6. Enquire into crimes and treasons at Rome and in Italy, and decide disputes among dependent cities. 7. Interpreting, dispensing with, and even abrogating laws. 8. Arm consuls with absolute

power, darent operam, &c. 9. Prorogue and postpone assemblies of people; pardon and reward; declared any one enemy.—Middleton on R. Sen.

Power of Senate—to propose to people who could not originate laws—this taken away by the Tribunes—and Senate not only obliged to allow assemblies at all times to be called, but to agree beforehand to whatever acts of the people.—Idem.

Power of Senate unlimited almost at first—except legislative power—choice of Magistrates and peace and war—all power in Senate—and a second *Senatus consultum* is necessary to ratify act of people in consequence of proposition from Senate.—Code d'Hum.

Senate consisted originally of 100—usually about 300—finally, by Jul. Caesar, 1,000—not agreed how appointed—whether by consuls and censors—or people, &c.; on extraordinary occasions by Dictator—censors on ordinary, (Middleton,) by people out of annual Magistrates, till there become a regular supply of course.—Middleton. Censors could expel; but other Censors reinstate; and Senators had an appeal from them to people.—Id.

Vertot thinks people had nothing to do in appointing Senators; power being first in Kings, then Consuls, then Censors, and on extraordinary occasions in Dictator; age required but not ascertained by antiquaries; so estate between £6 and 7,000 sterling; Senate assembled by Kings, Consuls, Dictators, Tribunes.

Power of Consuls.

1. Heads of Republic. 2. Command of Armies, levy troops in consequence of authority from comitia. 3. Authority over Italy and provinces, who could appeal to the tribunal, and could cite subjects to Rome, and punish with death. 4. Convene Senate, propose business, count votes, and draw up decrees; nor could any resolution pass if *one* of the Consuls *opposed*. 5. Addressed letters to Kings, &c.; gave audience to Ambassadors; introduced them to Senate; and carried into execution decrees touching all these matters. 6. Convoked Comitia; presided therein. 7. Applied money. Had all the power of the Kings; must be 42 years.

## Tribunes.

Uncertain whether at first 2, 3, or 5; established in 260; increased to 10 in 297. confined to city and one mile; at first had no power but to *defend* people, their persons being sacred for that purpose—but soon arrogated right to call senate and Assembly of people—and propose to them.

They were—1. Protectors of people; under which title they interfered in all affairs—released malefactors, and imprisoned principal Magistrates of Republic, as Consuls, and after a time exerted their authority over dictators and censors—(2.) Had the *veto* to stop the functions of all other Magistrates, and to negative all laws and decrees of the Senate—to dissolve comitia, so that Republic often in anarchy, and once 5 years without other Magistrates than Tribunes—by this veto, particularly as opposed to levies of men by order of Senate, they extorted everything they wanted. (3.) Sacredness of persons, of which they availed themselves much—pretending that it was violated in the persons of their officers. (4.) To convoke Senate and people; at first set at door of Senate waiting to be informed of result of its deliberations, and had no right to assemble people—but Junius Brutus caught at incautious acknowledgment of Consul, got comit. tribut. established in place of centuries, where votes unequal—and of curiata, where, as in centuries auspices necessary, and in both concurrence of Senate to the calling them and coming to Resolutions. To these they soon brought trial of principal citizens by appeal, and all sorts of affairs; got plebians voters; made laws by com. trib., which they managed and ordered as they pleased.\* (5.) Disposed of Governm<sup>ts</sup> and commands of Armies, finances, and lands of the public; Sylla, as Dictator, humbled the Tribunes, but they were restored, and Jul. Cæsar caused himself to be perpetual Tribune; the shadow continued down to Constantine the Great.

Roman Empire more than 2,000 m. from N. to S., more than

\* It appears that it was the design of Clodius to extend the suffrage to all the freedmen in the several tribes of the city, that the Tribunes might, by corruption, the more easily ferment seditions.—Cicero's Milo.

3,000 from W. to E.—Gibbon. Population of do. about 120 millions, including slaves—about  $\frac{1}{2}$ ; this more than in Europe.—  
Id.

Spain, 700 by 500 miles.

England, 360 by 300.

France, 600 by 500 “

Scotland, 300 by 150.

Italy, 600 by 400 “

Denmark, 240 by 180.

Germany, 600 by 500 “

Norway, 1,000 by 900.

Poland, 700 by 680 “

Sweden, 800 by 500 “

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TO GENERAL WASHINGTON.

RICHMOND, June 4, 1788.

DEAR SIR,—Your favor of the 2 ult<sup>o</sup> was not received 'til my arrival here on Monday evening. I found, contrary to my expectation, that not only a very full house had been made on the first day, but that it had proceeded to the appointment of the President and other officers. Mr. Pendleton was put into the chair without opposition. Yesterday, little more was done than settling some forms, and Resolving that no question, general or particular, should be propounded 'til the whole plan should be considered and debated, clause by clause. This was moved by Col. Mason, and, contrary to his expectations, concurred in by the other side. To-day, the discussions commenced in Committee of the whole. The Governor has declared the day of previous amendments passed, and thrown himself fully into the federal scale. Henry and Mason made a lame figure, and appeared to take different and awkward ground. The federalists are a good deal elated by the existing prospect. I dare not, however, speak with certainty as to the decision. Kentucky has been extremely tainted, is supposed to be generally adverse, and every piece of address is going on privately to work on the local interests and prejudices of that and other quarters.

In haste, I am, D<sup>r</sup> Sir, yrs affect<sup>y</sup>.

## TO GENERAL WASHINGTON.

RICHMOND, June 13, 1788.

DEAR SIR,—Your favor of \_\_\_\_\_ came to hand by the mail of Wednesday. I did not write by several late returns for two reasons: one, the improbability of your having got back to Mount Vernon; the other, a bilious indisposition, which confined me for several days. I am again tolerably well recovered.

Appearances at present are less favorable than at the date of my last. Our progress is slow, and every advantage is taken of the delay to work on the local prejudices of particular sets of members. British debts, the Indiana claim, and the Mississippi, are the principal topics of private discussion and intrigue, as well as of public declamation. The members who have served in Congress have been dragged into communications on the last, which could not be justifiable on any other occasion, if on the present. There is reason to believe that the event may depend on the Kentucky members, who seem to lean more against than in favor of the Constitution. The business is in the most ticklish state that can be imagined. The majority will certainly be very small, on whatever side it may finally lie; and I dare not encourage much expectation that it will be on the favorable side.

Oswald, of Philadelphia, has been here with letters for the anti-federal leaders from New York, and probably Philadelphia. He staid a very short time here, during which he was occasionally closeted with H—y, M—s—n, &c. I learn from New York that the elections have proved adverse to the Constitution.

Y<sup>rs</sup> affect<sup>y</sup>.

TO GENERAL WASHINGTON.

RICHMOND, June 18, 1788.

DEAR SIR,—No question, direct or indirect, has yet been taken by which the state of parties could be determined. Of course, each is left to enjoy the hopes resulting from its own partial calculations. It is probable the majority on either side will not exceed 3, 4, 5, or 6. I indulge a belief that at this time the friends of the Constitution have the advantage in point of number. Great moderation, as yet, marks our proceedings. Whether it be the effect of temper, or of the equality of forces and the uncertainty of victory, will be seen by the event. We are at present on the Executive Department. Mr. H—y has not made any opposition to it, though it was looked for. He may, however, still mean to make one, or he may lay by for an exertion against the Judiciary.

I find myself not yet restored, and extremely feeble.

With my affect<sup>d</sup> regards, I remain, yrs.

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TO COL. JAMES MADISON.

RICHMOND, June 20th, 1788.

HON<sup>d</sup> SIR,—No question has yet been taken by which the strength of parties can be determined. The calculations on different sides do not accord, each making them under the bias of their particular wishes. I think, however, the friends of the Constitution are most confident of superiority, and am inclined myself to think they have, at this time, the advantage of 3 or 4, or possibly more, in point of number. The final question will probably decide the contest in a few days more. We are now on the Judiciary Department, against which the last efforts of the adversaries seem to be made. How far they will be able to make an impression, I cannot say. It is not probable that many proselytes will be made on either side. As this will be handed to you at Court, you can make its contents known to Major



Moore and other friends, to whom I have not time separately to write.

With my regards to my mother and the family, I remain, your affectionate son.

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TO GENERAL WASHINGTON.

RICHMOND, June 23rd, 1788.

DEAR SIR,—We got through the Constitution by paragraphs to-day. To-morrow, some proposition for closing the business will be made. On our side, a ratification, involving a few declaratory truths not affecting its validity, will be tendered. The opposition will urge previous amendments. Their conversation to-day seemed to betray despair. Col. Mason, in particular, talked in a style which no other sentiment could have produced. He held out the idea of civil convulsions as the effects of obtruding the Government on the people. He was answered by several, and concluded with declaring his determination for himself, to acquiesce in the event whatever it might be. Mr. Henry endeavored to gloss what had fallen from his friend; declared his aversion to the Constitution to be such that he could not take the oath; but that he would remain in peaceable submission to the result. We calculate on a majority, but a bare one. It is possible, nevertheless, that some adverse circumstance may happen.

I am, dear Sir, in haste, yrs entirely.

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TO GENERAL WASHINGTON.

RICHMOND, June 25, 1788.

DEAR SIR,—On the question to-day for *previous* amendments, the votes stood—80 ayes, 88 noes. On the final question, the ratification passed—89 ayes, 79 noes. Subsequent amend

ments will attend the act, but are yet to be settled. The temper of the minority will be better known to-morrow. The proceedings have been without flaw, or pretext of it, and there is no doubt that acquiescence, if not cordiality, will be manifested by the unsuccessful party. *Two* of the leaders, however, betray the effect of the disappointment, so far as it is marked in their countenances.

In haste, yrs.

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TO GENERAL WASHINGTON.

RICHMOND, June 27, 1788.

DEAR SIR,—The Convention came to a final adjournment to-day. The inclosed is a copy of their act of ratification, with the yeas and nays. A variety of amendments have been since recommended, several of them highly objectionable, but which could not be parried. The minority are to sign an address this evening, which is announced to be of a peace-making complexion. Having not seen it, I can give no opinion of my own. I wish it may not have a further object. Mr. H——y declared, previous to the final question, that altho' he should submit as a quiet citizen, he should seize the first moment that offered for shaking off the yoke in a *constitutional way*. I suspect the plan will be to engage  $\frac{2}{3}$  of the Legislatures in the task of undoing the work; or to get a Congress appointed in the first instance that will commit suicide on their own authority.

Yrs, most affect<sup>y</sup> and respectfully.

## TO GENERAL WASHINGTON.

NEW YORK, July 21, 1788.

DEAR SIR,—I have deferred writing since my arrival here in the hourly hope of being enabled to communicate the final news from Poughkeepsie. By a letter from Hamilton, dated the day before yesterday, I find that it is equally uncertain when the business will be closed, and what will be its definitive form. The inclosed gazette states the form which the depending proposition bears. It is not a little strange that the anti-federal party should be reduced to such an expedient, and yet be able to keep their numbers together in the opposition. Nor is it less strange that the other party, as appears to be the case, should hesitate in deciding that the expedient as effectually keeps the State, for the present, out of the new union as the most unqualified rejection could do. The intelligent citizens see clearly that this would be its operation, and are agitated by the double motives of federalism and a zeal to give this City a fair chance for the first meeting of the new Government.

Congress have deliberated in part on the arrangements for putting the new machine into operation, but have concluded on nothing but the times for choosing electors, &c. Those who wish to make New York the place of meeting studiously promote delay. Others who are not swayed by this consideration do not urge dispatch. They think it would be well to let as many States as possible have an opportunity of deciding on the Constitution; and what is of more consequence, they wish to give opportunities, where they can take place, for as many elections of State Legislatures as can precede a reasonable time for making the appointments and arrangements referred to them. If there be too great an interval between the acts of Congress on this subject and the next election or next meeting of a State Legislature, it may afford a pretext for an intermediate summoning of the existing members, who are everywhere less federal than their successors hereafter to be elected will probably be. This is particularly the case in Maryland, where the anti-federal temper of the Executive would render an intermediate

and extraordinary meeting of the Assembly of that State the more likely to be called. On my way thro' Maryland I found such an event to be much feared by the friends, and wished by the adversaries, of the Constitution. We have no late news from Europe, nor anything from North Carolina.

With every sentiment of esteem and attachment, I remain, D<sup>r</sup> Sir, your obed<sup>t</sup> and affect. serv<sup>t</sup>.

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TO THOMAS JEFFERSON.

NEW YORK, 24th July, 1788.

DEAR SIR,—Your two last unacknowledged favors were of December 20 and February 6. They were received in Virginia, and no opportunity, till the present precarious one by the way of Holland, has enabled me to thank you for them.

I returned here about ten days ago from Richmond, which I left a day or two after the dissolution of the Convention. The final question on the new Government was put on the 25th of June. It was two-fold: 1. Whether previous amendments should be made a condition of ratification. 2. Directly on the Constitution, in the form it bore. On the first, the decision was in the negative, 88 being no, 80 only ay. On the second and definitive question, the ratification was affirmed by 89 ayes against 79 noes. A number of alterations were then recommended to be considered in the mode pointed out in the Constitution itself. The meeting was remarkably full; two members only being absent, and those known to be on the opposite sides of the question. The debates, also, were conducted on the whole with a very laudable moderation and decorum, and continued until both sides declared themselves ready for the question. And it may be safely concluded that no irregular opposition to the System will follow in that State, at least with the countenance of the leaders on that side. What local eruptions may be occasioned by ill-timed or rigorous executions of

the Treaty of peace against British debtors, I will not pretend to say. But although the leaders, particularly Henry and Mason, will give no countenance to popular violences, it is not to be inferred that they are reconciled to the event, or will give it a positive support. On the contrary, both of them declared they could not go that length, and an attempt was made under their auspices to induce the minority to sign an address to the people, which, if it had not been defeated by the general moderation of the party, would probably have done mischief.

Among a variety of expedients employed by the opponents to gain proselytes, Mr. Henry first, and after him Col<sup>d</sup>. Mason, introduced the opinions expressed in a letter from you to a correspondent, [Mr. Donald or Skipwith, I believe,] and endeavored to turn the influence of your name even against parts of which I knew you approved. In this situation, I thought it due to truth, as well as that it would be most agreeable to yourself, and accordingly took the liberty to state some of your opinions on the favorable side. I am informed that copies or extracts of a letter from you were handed about at the Maryland Convention, with a like view of impeding the ratification.

New Hampshire ratified the Constitution on the 20 ult., and made the ninth State. The votes stood 57 for, and 46 against the measure. South Carolina had previously ratified by a very great majority. The Convention of North Carolina is now sitting. At one moment, the sense of that State was considered as strongly opposed to the system. It is now said that the tide has been for some time turning, which, with the example of other States, and particularly of Virginia, prognosticates a ratification there also. The Convention of New York has been in session ever since the 17th ultimo, without having yet arrived at any final vote. Two-thirds of the members assembled with a determination to reject the Constitution, and are still opposed to it in their hearts. The local situation of New York, the number of ratifying States, and the hope of retaining the federal Government in this City, afford, however, powerful arguments to such men as Jay, Hamilton, the Chancellor, Duane, and several others; and it is not improbable that some form of

ratification will yet be devised, by which the dislike of the opposition may be gratified, and the State, notwithstanding, made a member of the new Union.

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*July 26th.*—We just hear that the Convention of this State have determined, by a small majority, to exclude from the ratification anything involving a condition, and to content themselves with recommending the alterations wished for.

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Crops in Virginia, of all sorts, were very promising when I left the State. This was the case also generally throughout the States I passed through, with local exceptions, produced in the wheat fields by a destructive insect, which goes under the name of the Hessian fly. It made its first appearance several years ago on Long Island, from which it has spread over half this State and a great part of New Jersey, and seems to be making an annual progress in every direction.

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TO COL. JAMES MADISON.

NEW YORK, July 27th, 1788.

HON<sup>d</sup> SIR,— \* \* \* \* \*

After a very tedious discussion, the Constitution has been ratified by the Convention of this State. It was carried by a majority of 5, the ayes being 30, the noes 25. Amendments, in general, similar to those of Virginia, are recommended, and a confidence expressed in the act of adoption that they will be incorporated in the Constitution. The Convention of North Carolina has not been heard from since it met. Congress are at present making the arrangements for putting the Government into operation.

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TO THOMAS JEFFERSON.

NEW YORK, August 10th, 1788.

DEAR SIR,—Mr. Warville Brissot has just arrived here, and I seize an opportunity suddenly brought to my knowledge to thank you for your several favors, and particularly for the pedometer. Answers to the letters must be put off for the next opportunity.

My last went off just as a vote was taken in the Convention of this State, which foretold the ratification of the new Government. The latter act soon followed, and is inclosed. The form of it is remarkable. I inclose, also, a circular address to the other States on the subject of amendments, from which mischiefs are apprehended. The great danger in the present crisis is, that if another Convention should be soon assembled it would terminate in discord, or in alterations of the federal system, which would throw back *essential* powers into the State Legislatures. The delay of a few years will assuage the jealousies which have been artificially created by designing men, and will at the same time point out the faults which really call for amendment. At present, the public mind is neither sufficiently cool nor sufficiently informed for so delicate an operation.

The Convention of North Carolina met on the 21st ultimo. Not a word has yet been heard from its deliberations. Rhode Island has not resumed the subject since it was referred to and rejected by the people in their several Towns.

Congress have been employed for several weeks in the arrangement of time and place for bringing the new Government into agency. The first has been agreed on, though not definitively, and makes it pretty certain that the first meeting will be held in the third week in March. The place has been a subject of much discussion, and continues to be uncertain. Philadelphia, as least eccentric of any place capable of affording due accommodations and a respectable outset to the Government, was the first proposed. The affirmative votes were New Hampshire, Connecticut, Pennsylvania, Maryland, Virginia, and North Carolina. Delaware was present and in favor of that place, but

one of its Delegates wishing to have a question on Wilmington previous to a final determination, divided that State and negatived the motion. New York came next in view, to which was opposed first Lancaster, which failed, and then Baltimore, which, to the surprise of every body, was carried by seven States. South Carolina, which had preferred New York to the two other more Southern positions, unexpectedly concurring in this. The vote, however, was soon rescinded; the State of South Carolina receding, the Eastern States remonstrating against, and few seriously urging, the eligibility of Baltimore. At present the question lies as it was originally supposed to do, between New York and Philadelphia, and nothing can be more uncertain than the event of it. Rhode Island, which alone was disposed to give the casting vote to New York, has refused to give any final vote for arranging and carrying into effect a system to which that State is opposed, and both the delegates have returned home.

Col. Carrington tells me has sent you the first volume of the federalist, and adds the second by this conveyance. I believe I never have yet mentioned to you that publication. It was undertaken last fall by Jay, Hamilton, and myself. The proposal came from the two former. The execution was thrown, by the sickness of Jay, mostly on the two others. Though carried on in concert, the writers are not mutually answerable for all the ideas of each other, there being seldom time for even a perusal of the pieces by any but the writer before they were wanted at the press, and sometimes hardly by the writer himself.

I have not a moment for a line to Mazzei. Tell him I have received his books, and shall attempt to get them disposed of. I fear his calculations will not be fulfilled by the demand for them here in the French language. His affair with Dorman stands as it did. Of his affair with Foster Webb I can say nothing. I suspect it will turn out badly.

Yours affectionately.



## TO GENERAL WASHINGTON.

NEW YORK, August 15, 1788.

DEAR SIR,—I have been duly favoured with yours of the 3rd instant. The length of the interval since my last has proceeded from a daily expectation of being able to communicate the final arrangements for introducing the new government. The place of meeting has undergone much discussion, as you conjectured, and still remains to be fixed. Philadelphia was first named, and negatived by a voice from Delaware. New York came forward next, Lancaster was opposed to it, and failed. Baltimore was next tried, and, to the surprise of every one, had seven votes. It was easy to see that that ground, had it been free from objections, was not maintainable. Accordingly, the next day New York was inserted in the place of it, with the aid of the vote of Rhode Island. Rhode Island, however, has refused to give a final vote in the business, and has actually retired from Congress. The question will be resumed between New York and Philadelphia. It was much to be wished that a fit place for a respectable outset to the government could be found more central than either. The former is inadmissible, if any regard be to be had to the Southern or Western country. It is so with me for another reason; that it tends to stop the final and permanent seat short of the Potowmac certainly, and probably in the State of New Jersey. I *know* this to be one of the views of the advocates for New York. The only chance the Potowmac has, is to get things in such a train that a coalition may take place between the southern and Eastern States on the subject, and still more, that the final seat may be undecided for two or three years, within which period the Western and south Western population will enter more into the estimate. Wherever Congress may be, the choice, if speedily made, will not be sufficiently influenced by that consideration. In this point of view, I am of opinion Baltimore would have been unfriendly to the true object. It would have retained Congress but a moment, so many States being north of it, and dissatisfied with it; and would have produced a coalition among those States, and a

precipitate election of the permanent seat, and an intermediate removal to a more northern position.

You will have seen the circular letter from the Convention of this State. It has a most pestilent tendency. If an early general Convention cannot be parried, it is seriously to be feared that the system which has resisted so many direct attacks may be at last successfully undermined by its enemies. It is now, perhaps, to be wished that Rhode Island may not accede till this new crisis of danger be over. Some think it would have been better if even New York had held out till the operation of the government could have dissipated the fears which artifice had created, and the attempts resulting from those fears and artifices.

We hear nothing yet from North Carolina more than comes by the way of Petersburg.

With the highest respect and attachment, I remain, D<sup>r</sup> Sir, your affect<sup>o</sup> serv<sup>t</sup>.

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TO THOMAS JEFFERSON.

NEW YORK, August 23d, 1788.

DEAR SIR,—My last went via England, in the hands of a Swiss gentleman, who had married an American lady, and was returning with her to his own Country. He proposed to take Paris in his way. By that opportunity I inclosed copies of the proceedings of this State on the subject of the Constitution.

North Carolina was then in Convention, and it was generally expected would, in some form or other, have fallen into the general stream. The event has disappointed us. It appears that a large majority has decided against the Constitution as it stands, and, according to the information here received, has made the alterations proposed by Virginia the conditions on which alone that State will unite with the others. Whether this be the precise state of the case, I cannot say. It seems at least certain that she has either rejected the Constitution, or

annexed conditions precedent to her ratification. It cannot be doubted that this bold step is to be ascribed in part to the influence of the minority in Virginia, which lies mostly in the Southern part of the State, and to the management of its leader. It is in part ascribed, also, by some, to assurances transmitted from leading individuals here, that New York would set the example of rejection.

The event, whatever may have been its cause, with the tendency of the circular letter from the Convention of New York, has somewhat changed the aspect of things, and has given fresh hopes and exertions to those who opposed the Constitution. The object with them now will be to effect an early Convention, composed of men who will essentially mutilate the system, particularly in the article of taxation, without which, in my opinion, the system cannot answer the purposes for which it was intended. An early Convention is in every view to be dreaded in the present temper of America. A very short period of delay would produce the double advantage of diminishing the heat and increasing the light of all parties. A trial for one year will probably suggest more real amendments than all the antecedent speculations of our most sagacious politicians.

Congress have not yet decided on the arrangements for inaugurating the new Government. The place of its first meeting continues to divide the Northern and Southern members, though with a few exceptions to these general descriptions of the parties. The departure of Rhode Island, and the refusal of North Carolina, in consequence of the late event there, to vote in the question, threatens a disagreeable issue to the business, there being now an apparent impossibility of obtaining seven States for any one place. The three Eastern States and New York, reinforced by South Carolina, and as yet by New Jersey, give a plurality of votes in favor of this city. The advocates for a more central position, however, though less numerous, seemed very determined not to yield to what they call a shameful partiality to one extremity of the continent. It will be certainly of far more importance under the proposed than the present system that regard should be had to centrality, whether we

consider the number of members belonging to the Government, the diffusive manner in which they will be appointed, or the increased resort of individuals having business with the Legislative, Executive, and Judiciary departments.

If the Western Country be taken into view, as it certainly ought, the reasoning is still further corroborated. There is good ground to believe that a very jealous eye will be kept in that quarter on inattention to it, and particularly when involving a seeming advantage to the Eastern States, which have been rendered extremely suspicious and obnoxious by the Mississippi project. There is even good ground to believe that Spain is taking advantage of this disgust in Kentucky, and is actually endeavoring to seduce them from the Union, holding out a darling object which will never be obtained by them as part of the Union. This is a fact as certain as it is important, but which I hint in strict confidence, and with a request that no suspicion may be excited of its being known, particularly through the channel of me. I have this moment notice that I must send off my letter instantly, or lose the conveyance. I must consequently defer further communications till another opportunity.

Along with this you will receive a copy of the report you desired from Mr. Thomson, and a copy of the *Federalist*, a publication mentioned in my last.

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TO GENERAL WASHINGTON.

NEW YORK, August 24, 1788.

DEAR SIR,—I was yesterday favored with yours of the 17th, 18th, under the same cover with the papers from Mr. Pleasants. The circular letter from this State is certainly a matter of as much regret as the unanimity with which it passed is matter of surprize. I find it is every where, and particularly in Virginia, laid hold of as the signal for united exertions in pursuit of early amendments. In Pennsylvania, the anti-federal leaders are, I understand, soon to have a meeting at Harrisburg, in order to concert proper arrangements on the part of that State. I begin

now to accede to the opinion, which has been avowed for some time by many, that the circumstances involved in the ratification of New York will prove more injurious than a rejection would have done. The latter would have rather alarmed the well-meaning anti-federalists elsewhere; would have had no ill effect on the other party; would have excited the indignation of the neighbouring States; and would have been necessarily followed by a speedy reconsideration of the subject. I am not able to account for the concurrence of the federal part of the convention in the circular address on any other principle than the determination to purchase an immediate ratification in any form or at any price, rather than disappoint this city of a chance for the new Congress. This solution is sufficiently justified by the eagerness displayed on this point, and the evident disposition to risk and sacrifice everything to it. Unfortunately, the disagreeable question continues to be undecided, and is now in a state more perplexing than ever. By the last vote taken, the whole arrangement was thrown out, and the departure of Rhode Island, and the refusal of North Carolina to participate further in the business, has left eleven States only to take it up anew. In this number there are not seven States for any place, and the disposition to relax, as usually happens, decreases with the progress of the contest. What and when the issue is to be, is really more than I can foresee. It is truly mortifying that the outset of the new government should be immediately preceded by such a display of locality as portends the continuance of the evil which has dishonored the old, and gives countenance to some of the most popular arguments which have been inculcated by the southern Federalists.

New York has appeared to me extremely objectionable, on the following grounds: It violates too palpably the simple and obvious principle, that the seat of public business should be made as equally convenient to every part of the public as the requisite accommodations for executing the business will permit. This consideration has the more weight, as well on account of the catholic spirit professed by the Constitution, as of the increased resort which it will require from every quarter

of the continent. It seems to be particularly essential that an eye should be had in all our public arrangements to the accommodation of the western country, which, perhaps, cannot be sufficiently gratified at any rate, but which might be furnished with new fuel to its jealousy by being summoned to the sea shore, and almost at one end of the continent. There are reasons, but of too confidential a nature for any other than verbal communication, which make it of critical importance that neither cause nor pretext should be given for distrusts in that quarter of the policy towards it in this. I have apprehended, also, that a preference so favorable to the Eastern States would be represented in the Southern as a decisive proof of the preponderance of that scale, and a justification of all the anti-federal arguments drawn from that danger. Adding to all this, the recollection that the first year or two will produce all the great arrangements under the new system, and which may fix its tone for a long time to come, it seems of real importance that the temporary residence of the new Congress, apart from its relation to the final residence, should not be thrown too much towards one extremity of the Union. It may, perhaps, be the more necessary to guard against suspicions of partiality in this case, as the early measures of the new Government, including a navigation act, will of course be most favorable to this extremity.

But I own that I am much influenced by a view to the final residence, which I conceive to be more likely to be properly chosen in Philadelphia than in New York. The extreme eccentricity of the latter will certainly, in my opinion, bring on a premature, and consequently an improper choice. This policy is avowed by some of the sticklers for this place, and is known to prevail with the bulk of them. People from the interior parts of Georgia, South Carolina, North Carolina, and Virginia, and Kentucky, will never patiently repeat their trips to this remote situation, especially as the Legislative sessions will be held in the winter season. Should no other consequence take place than a frequent or early agitation of this contentious subject, it would form a strong objection against New York.

Were there occasion to fear a repugnance to the establish-

ment of a final seat, or a choice of a commercial city for the purpose, I should be strongly tempted to shun Philadelphia at all events. But my only fear on the first head is, of a precipitancy in carrying that part of the Federal Constitution into effect, and on the second, the public sentiment, as well as other considerations, is so fixedly opposed as to banish the danger from my apprehensions. Judging from my own experience on this subject, I conclude, that from motives of one sort or another, ten States at least, (that is, five from each end of the Union,) to say nothing of the Western States, will, at any proper time, be ready to remove from Philadelphia. The only difficulty that can arise will be that of agreeing on the place to be finally removed to, and it is from that difficulty alone, and the delay incident to it, that I derive my hope in favor of the banks of the Potowmac. There are some other combinations on the subject into which the discussion of it has led me, but I have already troubled you with more, I fear, than may deserve your attention.

The newspapers herewith enclosed contain the European intelligence brought by the last packets from England.

With every sentiment of esteem and attachment, I remain, dear sir, your obt and affect<sup>d</sup> serv<sup>t</sup>.

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TO COL. JAMES MADISON.

NEW YORK, Sept<sup>r</sup> 6th, 1788.

HON<sup>d</sup> SIR,—The anti-federalists are everywhere exerting themselves for an early Convention. The circular letter from this State, and the rejection of North Carolina, give them great spirits. Virginia, I suppose, from the temper of the present Legislature, will co-operate in the plan.

Congress have not yet settled the place for the meeting of the new Government. It is most probable that the advocates for New York, who form at present the greater number, will prevail. In that case, although I think it a very unreasonable

thing for the Southern and Western parts of the Union, the best face must be put on it.

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TO GENERAL WASHINGTON.

NEW YORK, September 14, 1788.

DEAR SIR,—The delay in providing for the commencement of the Government was terminated yesterday, by an acquiescence of the minor number in the persevering demands of the major. The time for choosing the Electors is the first wednesday in January, and for choosing the President, the first wednesday in February. The meeting of the Government is to be the first wednesday in March, and in the city of New York. The times were adjusted to the meetings of the State Legislatures. The plan was the result of the dilemma to which the opponents of New York were reduced, of yielding to its advocates or strangling the Government in its birth. The necessity of yielding and the impropriety of further delay have been for some time obvious to me, but others did not view the matter in the same light. Maryland and Delaware were absolutely inflexible. It has, indeed, been too apparent that local considerations have very improperly predominated in this question, and that something more is aimed at than merely the first session of the Government at this place. Every circumstance has shewn that the policy is to keep Congress here till a permanent seat be chosen, and to obtain a permanent seat, at farthest, not beyond the Susquehannah. New Jersey, by its Legislature, as well as its delegation in Congress, has clearly discovered her view to be a temporary appointment of New York, as affording the best chance of a permanent establishment at Trenton. I have been made so fully sensible of these views in the course of the business, as well as of the impropriety of so excentric a position as New York, that I could have finally concurred in any plan more Southward to which the Eastern States would have acceded; and, previous to the definitive vote, a motion was made tendering



a blank for that purpose. At any place South of the Delaware, the Susquehannah, at least, would have been secured, and a hope given to the Potowmac. As the case is, I conceive the Susquehannah to be the utmost to be hoped for, with no small danger of being stopped at the Delaware. Besides this consequence, the decision will, I fear, be regarded as at once a proof of the preponderancy of the Eastern strength, and of a disposition to make an unfair use of it; and it cannot but happen that the question will be entailed on the new Government, which will have enough of other causes of agitation in its Councils.

The meeting at Harrisburg is represented by its friends as having been conducted with much harmony and moderation. Its proceedings are said to be in the press, and will, of course, soon be before the public. I find all the mischief apprehended from Clinton's circular letter in Virginia will be verified. The Anti-federalists lay hold of it with eagerness as the harbinger of a second Convention, and as the Governor espouses the project, it will certainly have the co-operation of our Assembly.

I enclose a sensible little pamphlet, which falls within the plan of investigating and comparing the the languages of the Aboriginal Americans.

With sincerest attachment, I am, D<sup>r</sup> Sir, your obt and very  
h<sup>ble</sup> serv<sup>t</sup>.

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TO THOMAS JEFFERSON.

NEW YORK, Sept<sup>r</sup> 21, 1788.

DEAR SIR,—Being informed of a circuitous opportunity to France, I make use of it to forward the inclosures. By one of them you will find that Congress have been at length brought into the true policy which is demanded by the situation of the Western country. An additional resolution on the secret journal puts an end to all negociation with Spain, referring the subject of a treaty, after this assertion of right to the Mississippi, to the new Government. The communication in my last

will have shown you the crisis of things in that quarter, a crisis, however, not particularly known to Congress, and will be a key to some of the Kentucky toasts in the Virginia Gazette.

The circular letter from the New York Convention has re-kindled an ardor among the opponents of the federal Constitution for an *immediate* revision of it by another General Convention. You will find in one of the papers inclosed the result of the consultations in Pennsylvania on that subject. Mr Henry and his friends in Virginia enter with great zeal into the scheme. Governor Randolph also espouses it, but with a wish to prevent, if possible, danger to the article which extends the power of the Government to internal as well as external taxation. It is observable that the views of the Pennsylvania meeting do not rhyme very well with those of the Southern advocates for a Convention; the objects most eagerly pursued by the latter being unnoticed in the Harrisburg proceedings. The effect of the circular letter on other States is less known. I conclude that it will be the same everywhere among those who opposed the Constitution, or contended for a conditional ratification of it.

Whether an early Convention will be the result of this united effort is more than can at this moment be foretold. The measure will certainly be industriously opposed in some parts of the Union, not only by those who wish for no alterations, but by others who would prefer the other mode provided in the Constitution as most expedient, at present, for introducing those supplemental safeguards to liberty against which no objections can be raised; and who would, moreover, approve of a Convention for amending the frame of the Government itself, as soon as time shall have somewhat corrected the feverish state of the public mind, and trial have pointed its attention to the true defects of the system.

You will find, also, by one of the papers inclosed, that the arrangements have been completed for bringing the new Government into action. The dispute concerning the place of its meeting was the principal cause of delay; the Eastern States,

with New Jersey and South Carolina, being attached to New York, and the others strenuous for a more central position. Philadelphia, Wilmington, Lancaster, and Baltimore, were successively tendered without effect by the latter, before they finally yielded to the superiority of members in favor of this city. I am afraid the decision will give a great handle to the Southern anti-federalists, who have inculcated a jealousy of this end of the continent. It is to be regretted, also, as entailing this pernicious question on the new Congress, who will have enough to do in adjusting the other delicate matters submitted to them. Another consideration of great weight with me is, that the temporary residence here will probably end in a permanent one at Trenton, or, at the farthest, on the Susquehannah. A removal in the first instance beyond the Delaware would have removed the alternative to the Susquehannah and the Potomac. The best chance of the latter depends on a delay of the permanent establishment for a few years, until the Western and South Western population comes more into view. This delay cannot take place if so excentric a place as New York is to be the intermediate seat of business.

To the other papers is added a little pamphlet on the Mohegan language. The observations deserve the more attention as they are made by a man of known learning and character, and may aid researches into the primitive structure of language, as well as those on foot for comparing the American tribes with those on the Eastern frontier of the other continent.

In consequence of your letter to Mr. Jay on the subject of "outfit," &c., I had a conference with him, and he agreed to suggest the matter to Congress. This was done, and his letter referred back to be reported on. The idea between us was, that the reference should be to a Committee. His letter coming in at a moment when I happened to be out, it was, as in course, referred to his department. His answer suggested, that as he might be thought eventually concerned in the question, it was most proper for the consideration of a Committee. I had discovered that he was not struck with the peculiarities of your case, even when insinuated to him. How far the Committee

will be so is more than I can yet say. In general, I have no doubt that both it and Congress are well disposed. But it is probable that the idea of a precedent will beget much caution, and, what is worse, there is little probability of again having a quorum of States for the business.

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TO THOMAS JEFFERSON.

NEW YORK, October 8th, 1788.

DEAR SIR,—Herewith inclosed are a letter for yourself, forwarded to my hands from General Washington, and two others for the Marquis, one from the same quarter, the other from myself. I put both the last under cover to you, not knowing what regard may be due to newspaper authority that the Marquis is under the open displeasure of the court, and may therefore be the less likely to receive letters through any other channel. Sometimes the report runs that he is in the Bastile; at another, that he is at the head of a revolt in some one of the Provinces.

My last letters have followed each other so quickly, and the last of all is of such recent date, that this opportunity by a gentleman going to France enables me to add but little to what has been already communicated. The result of the meeting at Harrisburg was the latest event worthy of notice at the date of my last. Nothing has since taken place in relation to the new Government but the appointment of Mr. Robert Morris and Mr. Maclay to represent Pennsylvania in the Senate. A law has also passed in that State providing for the election of members for the House of Representatives, and of electors of the President. The act proposes that every citizen throughout the State shall vote for the whole number of members allotted to the State. This mode of election will confine the choice to characters of general notoriety, and so far be favorable to merit. It is, however, liable to some popular objections urged against the tendency of the new system. In Virginia, I am inclined to think, the State will be divided into as many districts

as there are to be members. In other States, as in Connecticut, the Pennsylvania example will probably be followed. And in others, again, a middle course be taken. It is, perhaps, to be desired that various modes should be tried, as by that means only the best mode can be ascertained.

There is no doubt that General Washington will be called to the Presidency. For the vice Presidency are talked of principally Mr. Hancock and Mr. Adams. Mr. Jay or General Knox would, I believe, be preferred to either, but both of them will probably chuse to remain where they are. It is impossible to say which of the former would be preferred, or what other candidates may be brought forward.

I have a letter from Mr. George Lee Turberville, of Virginia, requesting me to mention to you a report proceeding from Greenwich, that a Doctor Spence and his lady (the former a Virginian, of respectable family, in the lower end of the Northern neck, and whose mother is still living in a second marriage with a Doctor Thomson, of Westmoreland County) were captured on their way to Virginia, and carried into Algiers. This event is said to have happened seven or eight years ago, though discovered but lately, it having been taken for granted that the vessel and all on board had perished at sea. I am much inclined to believe that this supposition is the true one, and that the Greenwich story has no foundation. I communicate it, nevertheless, as requested by Mr. Turberville, that you may have an opportunity of collecting for the friends of Doctor Spence any information which may be interesting to them, and of taking any steps that such information may suggest in behalf of the distressed.

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TO THOMAS JEFFERSON.

NEW YORK, October 17th, 1788.

DEAR SIR,—I have written a number of letters to you since my return here, and shall add this by another casual opportunity just notified to me by Mr. St. John. Your favor of July

31 came to hand the day before yesterday. The pamphlets of the Marquis Condorcet and Mr. Dupont, referred to in it, have also been received. Your other letters enclosed to the Delegation have been and will be disposed of as you wish, particularly those to Col. Eppes and Mr. Lewis.

Nothing has been done on the subject of the 445 outfit, 1357, there not having been a Congress of nine States for some time, nor even of seven for the last week. It is pretty certain that there will not again be a quorum of either number within the present year, and by no means certain that there will be one at all under the old Confederation. The Committee, finding that nothing could be done, have neglected to make a report as yet. I have spoken with a member of it in order to get one made, that the case may fall, of course, and in a favorable shape, within the attention of the new Government. The fear of a precedent will probably lead to an allowance for a limited time of the salary, as enjoyed originally by foreign ministers, in preference to a separate allowance for outfit. One of the members of the Treasury board, who ought, if certain facts have not escaped his memory, to witness the reasonableness of your calculations, takes occasion, I find, to impress a contrary idea. Fortunately, his influence will not be a very formidable obstacle to right.

The States which have adopted the New Constitution are all proceeding to the arrangements for putting it into action in March next. Penn<sup>a</sup> alone has as yet actually appointed Deputies, and that only for the Senate. My last mentioned that these were Mr. R. Morris and a Mr. McClay. How the other elections there and elsewhere will run is matter of uncertainty. The Presidency alone unites the conjectures of the public. The Vice President is not at all marked out by the general voice. As the President will be from a Southern State, it falls almost of course for the other part of the Continent to supply the next in rank. South Carolina may, however, think of Mr. Rutledge, unless it should be previously discovered that votes will be wasted on him.

The only candidates in the Northern States brought forward

with their known consent are Hancock and Adams. Between these it seems probable the question will lie. Both of them are objectionable, and would, I think, be postponed by the general suffrage to several others, if they would accept the place. Hancock is weak, ambitious, a courtier of popularity, given to low intrigue, and lately reunited by a factious friendship with S. Adams. J. Adams has made himself obnoxious to many, particularly in the Southern States, by the political principles avowed in his book. Others, recollecting his cabal during the war against General Washington, knowing his extravagant self-importance, and considering his preference of an unprofitable dignity to some place of emolument better adapted to his private fortune as a proof of his having an eye to the Presidency, conclude that he would not be a very cordial second to the General, and that an impatient ambition might even intrigue for a premature advancement. The danger would be the greater if factious characters, as may be the case, should get into the public councils. Adams, it appears, is not unaware of some of the obstacles to his wish, and through a letter to Smith has thrown out popular sentiments as to the proposed President.

The little pamphlet herewith inclosed will give you a collective view of the alterations which have been proposed by the State Conventions for the new Constitution. Various and numerous as they appear, they certainly omit many of the true grounds of opposition. The articles relating to Treaties, to paper money, and to contracts, created more enemies than all the errors in the system, positive and negative, put together.

It is true, nevertheless, that not a few, particularly in Virginia, have contended for the proposed alterations from the most honorable and patriotic motives; and that among the advocates for the Constitution there are some who wish for further guards to public liberty and individual rights. As far as these may consist of a constitutional declaration of the most essential rights, it is probable they will be added; though there are many who think such addition unnecessary, and not a few who think it misplaced in such a Constitution. There is scarce

any point on which the party in opposition is so much divided as to its importance and its propriety. My own opinion has always been in favor of a bill of rights, provided it be so framed as not to imply powers not meant to be included in the enumeration. At the same time, I have never thought the omission a material defect, nor been anxious to supply it even by *subsequent* amendment, for any other reason than that it is anxiously desired by others. I have favored it because I supposed it might be of use, and, if properly executed, could not be of disservice.

I have not viewed it in an important light—1. Because I conceive that in a certain degree, though not in the extent argued by Mr. Wilson, the rights in question are reserved by the manner in which the federal powers are granted. 2. Because there is great reason to fear that a positive declaration of some of the most essential rights could not be obtained in the requisite latitude. I am sure that the rights of conscience in particular, if submitted to public definition, would be narrowed much more than they are likely ever to be by an assumed power. One of the objections in New England was, that the Constitution, by prohibiting religious tests, opened a door for Jews, Turks, and infidels. 3. Because the limited powers of the federal Government, and the jealousy of the subordinate Governments, afford a security which has not existed in the case of the State Governments, and exists in no other. 4. Because experience proves the inefficacy of a bill of rights on those occasions when its controul is most needed. Repeated violations of these parchment barriers have been committed by overbearing majorities in every State.

In Virginia, I have seen the bill of rights violated in every instance where it has been opposed to a popular current. Notwithstanding the explicit provision contained in that instrument for the rights of conscience, it is well known that a religious establishment would have taken place in that State, if the Legislative majority had found, as they expected, a majority of the people in favor of the measure; and I am persuaded that if a majority of the people were now of one sect, the measure would



still take place, and on narrower ground than was then proposed, notwithstanding the additional obstacle which the law\* has since created.

Wherever the real power in a Government lies, there is the danger of oppression. In our Governments the real power lies in the majority of the community, and the invasion of private rights is *chiefly* to be apprehended, not from acts of Government contrary to the sense of its constituents, but from acts in which the Government is the mere instrument of the major number of the Constituents. This is a truth of great importance, but not yet sufficiently attended to; and is probably more strongly impressed on my mind by facts and reflections suggested by them than on yours, which has contemplated abuses of power issuing from a very different quarter. Wherever there is an interest and power to do wrong, wrong will generally be done, and not less readily by a powerful and interested party than by a powerful and interested prince. The difference, so far as it relates to the superiority of republics over monarchies, lies in the less degree of probability that interest may prompt abuses of power in the former than in the latter; and in the security in the former against an oppression of more than the smaller part of the Society, whereas, in the latter, it may be extended in a manner to the whole.

The difference, so far as it relates to the point in question—the efficacy of a bill of rights in controuling abuses of power—lies in this: that in a monarchy the latent force of the nation is superior to that of the Sovereign, and a solemn charter of popular rights must have a great effect as a standard for trying the validity of public acts, and a signal for rousing and uniting the superior force of the community; whereas, in a popular Government, the political and physical power may be considered as vested in the same hands, that is, in a majority of the people, and, consequently, the tyrannical will of the Sovereign is not to be controuled by the dread of an appeal to any other force within the community.

\* The bill of Religious freedom.

What use, then, it may be asked, can a bill of rights serve in popular Governments? I answer, the two following, which, though less essential than in other Governments, sufficiently recommend the precaution: 1. The political truths declared in that solemn manner acquire by degrees the character of fundamental maxims of free Government, and as they become incorporated with the National sentiment, counteract the impulses of interest and passion. 2. Although it be generally true, as above stated, that the danger of oppression lies in the interested majorities of the people rather than in usurped acts of the Government, yet there may be occasions on which the evil may spring from the latter source; and on such, a bill of rights will be a good ground for an appeal to the sense of the community. Perhaps, too, there may be a certain degree of danger that a succession of artful and ambitious rulers may, by gradual and well-timed advances, finally erect an independent Government on the subversion of liberty. Should this danger exist at all, it is prudent to guard against it, especially when the precaution can do no injury.

At the same time, I must own that I see no tendency in our Governments to danger on that side. It has been remarked that there is a tendency in *all* Governments to an augmentation of power at the expence of liberty. But the remark, as usually understood, does not appear to me well founded. Power, when it has attained a certain degree of energy and independence, goes on generally to further degrees. But when below that degree, the direct tendency is to further degrees of relaxation, until the abuses of liberty beget a sudden transition to an undue degree of power. With this explanation the remark may be true; and in the latter sense only is it, in my opinion, applicable to the existing Governments in America. It is a melancholy reflection that liberty should be equally exposed to danger whether the Government have too much or too little power, and that the line which divides these extremes should be so inaccurately defined by experience.

Supposing a bill of rights to be proper, the articles which ought to compose it admit of much discussion. I am inclined

to think that *absolute* restrictions in cases that are doubtful, or where emergencies may overrule them, ought to be avoided. The restrictions, however strongly marked on paper, will never be regarded when opposed to the decided sense of the public; and after repeated violations, in extraordinary cases will lose even their ordinary efficacy. Should a Rebellion or insurrection alarm the people as well as the Government, and a suspension of the Habeas Corpus be dictated by the alarm, no written prohibitions on earth would prevent the measure. Should an army in time of peace be gradually established in our neighborhood by Britain or Spain, declarations on paper would have as little effect in preventing a standing force for the public safety. The best security against these evils is to remove the pretext for them.

With regard to monopolies, they are justly classed among the greatest nuisances in Government. But is it clear that, as encouragements to literary works and ingenious discoveries, they are not too valuable to be wholly renounced? Would it not suffice to reserve in all cases a right to the public to abolish the privilege, at a price to be specified in the grant of it? Is there not, also, infinitely less danger of this abuse in our Governments than in most others? Monopolies are sacrifices of the many to the few. Where the power is in the few, it is natural for them to sacrifice the many to their own partialities and corruptions. Where the power, as with us, is in the many, not in the few, the danger cannot be very great that the few will be thus favored. It is much more to be dreaded that the few will be unnecessarily sacrificed to the many.

I enclose a paper containing the late proceedings in Kentucky. I wish the ensuing Convention may take no step injurious to the character of the District, and favorable to the views of those who wish ill to the United States. One of my late letters communicated some circumstances which will not fail to occur on perusing the objects of the proposed Convention in next month. Perhaps, however, there may be less connection between the two cases than at first one is ready to conjecture.

I am, dear sir, with the sincerest esteem and affection, yours.

TO EDMUND PENDLETON.

NEW YORK, Oct<sup>r</sup> 20th, 1788.

DEAR SIR,—I acknowledge with much pleasure your favor of the 6th instant. The “balmy” nature of the Resolutions concerning the Mississippi will, I hope, have the effect you suggest; though the wounds given to some, and the pretexts given to others, by the proceedings which rendered them necessary, will not, I fear, be radically removed. The light in which the temporary seat of the new Government is viewed and represented by those who were governed by antecedent jealousies of this end of the Union is a natural one, and the apprehension of it was among the most persuasive reasons with me for contending, with some earnestness, for a less eccentric position. A certain degree of impartiality, or the appearance of it, is necessary in the most despotic Governments. In republics this may be considered as the vital principle of the administration. And in a *federal* Republic, founded on local distinctions, involving local jealousies, it ought to be attended to with a still more scrupulous exactness.

I am glad to find you concurring in the requisite expedients for preventing anti-federal elections and a premature Convention. The circular letter from this State has united and animated the efforts on the adverse side with respect to both these points. An early Convention threatens discord and mischief. It will be composed of the most heterogeneous characters; will be actuated by the party spirit reigning among their constituents; will comprehend men having insidious designs against the Union; and can scarcely, therefore, terminate in harmony or the public good. Let the enemies to the system wait until some experience shall have taken place, and the business will be conducted with more light, as well as with less heat. In the mean time, the other mode of amendments may safely be employed to quiet the fears of many, by supplying those further guards for private rights which can do no harm to the system, in the judgment even of its most partial friends, and will even be approved by others who have steadily supported it.

It appears from late foreign intelligence that war is likely

to spread its flames still farther among the unfortunate inhabitants of the old world. France is certainly enough occupied already with her internal fermentations. At present the struggle is merely between the Aristocracy and the Monarchy. The only chance in favor of the people lies in the mutual attempts of the competitors to make their side of the question the popular one. The late measures of the Court have that tendency. The nobility and clergy, who wish to accelerate the States-General, wish at the same time to have it formed on the antient model, established on the feudal idea, which excluded the people almost altogether. The Court has at length agreed to convene this Assembly in May, but is endeavouring to counteract the aristocratic policy, by admitting the people to a greater share of representation. In both the parties there are some real friends to liberty, who will probably take advantage of circumstances to promote their object. Of this description, on the anti-court side, is our friend, the Marquis. It is not true, I believe, that he is in the Bastile, but true that he is in disgrace, as the phrase there is.

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TO GENERAL WASHINGTON.

NEW YORK, October 21, 1788.

DEAR SIR,—I send you the enclosed paper chiefly for the sake of the edict, which fixes on May for the meeting of the States General in France. Letters from Mr. Jefferson authenticate the document. They mention also the disgrace, as it is called, of the Marquis. The struggle at present, in that kingdom, seems to be entirely between the monarchy and aristocracy, and the hopes of the people merely in the competition of their enemies for their favour. It is probable, however, that both the parties contain real friends to liberty, who will make events subservient to their object.

The Count Moustier and the Marchioness Brehan are to set out this day for Mount Vernon. I take it for granted you are not only apprised of the intended visit, but of the time at which the guests may be expected.

The State of Connecticut has made choice of Doct<sup>r</sup> Johnson and Mr. Ellsworth for its Senators, and has referred that of its representatives to the people at large; every individual citizen to vote for every Representative.

I have not heretofore acknowledged your last favor, nothing material having turned up for some time, and the purpose of Col. Carrington to see you on his way to Virginia superseding all the ordinary communications through the epistolary channel.

It gives me much pleasure to find that both the opposition, at first, and finally the accession, to the vote fixing New York for the first meeting of the new Congress, has your approbation. My fears that the measure would be made a handle of by the opposition are confirmed in some degree by my late information from Virginia. Mr. Pendleton, the chancellor, tells me he has already met taunts from that quarter on this specimen of Eastern equity and impartiality. Whether much noise will be made, will depend on the policy which Mr. Henry may find it convenient to adopt. As New York is at the head of his party, he may be induced by that circumstance not to make irritating reflections; though the fact is, that the party in this State which is with him is supposed to be indifferent, and even secretly averse, to the residence of Congress here. This, however, may not be known to him.

I am, Dear Sir, yours most respectfully and affecte<sup>ly</sup>.

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*Questions from and answers to the Count de Moustier, Minister Plenipotentiary of France, October 30, 1788.*

1. Quelle est l'opinion des habitans les plus instruits de la Virginie, sur le contrat de la ferme avec Mons. Rob. Morris et quel est le système qu'ils voudroient y substituer?

1. It is not easy to give a precise answer to this question, many of the best informed not having been led to communicate their opinions, and others having been directly or indirectly interested on one side or the other. It seems to have been rather the prevailing opinion that the contract was more hurtful to the

price of tobacco than a supply of the Farmer General by purchases made in the English or other Foreign Markets. This opinion must be founded on a supposition that the Mercantile sellers in Europe could more easily combine and counteract the monopoly than the Planters of America. It does not appear that those who dislike their contract have particularly turned their thoughts to a system proper to be substituted. The general idea seems to have been that some arrangement in France, disarming the monopoly there of its influence, direct or indirect, on the market here, could alone effectually answer the purpose.

2. Ne pourrions nous pas fournir a très bon marché le gros lainage pour l'habillement des negres?

The manufacture of this article being extremely simple, and easily accommodated to the use, the event of a competition must depend on the comparative price of the material. The cloathing of negroes is made of the coarsest materials. It is at present supplied in part by family manufacture, especially where a few negroes only belong to the same master, and this resource is daily increasing. Principal part, however, comes from G. Britain; and if no foreign competition interferes, this must be the case for a considerable time.

3. Quels sont en general les objects de commerce, dont il pourroit être interessant d'encourager l'importation soit en France, soit aux Antilles?

3. Virginia produces Tobacco, Wheat, Indian Corn, Lumber, salt provisions, coal, Iron, Hemp, tar, pitch, turpentine, flax-seed. Ship-building can be carried on also advantageously. It is the interest of Virginia to find encouragement for all these articles; and of France to give encouragement, so far, at least, as she does not herself produce them. Tobacco, naval stores, ready-built vessels, flax-seed, and occasionally wheat and flour also, are wanted in France. Flour, Bread, Indian Corn, salt provisions, lumber, and ready-built vessels of inferior size, are adapted to the wants of the Islands.

4. Quelles sont d'un autre côté les marchandises du Royaume on des Isles dont les Virginiens paroissent avoir le plus grand besoin?

4. As Virginia does not manufacture, and consumes less or more of a very great variety of articles, she may be considered as wanting most of the French manufactures recommended by their quality and

price. At present, the coarser woollens of France are inferior to those of Britain, and her coarser linens to those of Germany. In the articles of hardware and leather, the English have also greatly the advantage. Wines, brandies, oil, Fruits, silks, cambricks, Lawns, printed goods, Glass, Kid gloves, ribbons, superfine broadcloths, &c., are articles which may be best obtained from France. The goods imported, as valued at the ports of delivery, between Sep<sup>r</sup> 1, '86, and July 20, '87, amounted to 949,444.60-7. excluding Salt, distilled spirits, wine, malt liquors, cheese, Tea, sugar, coffee. These paid a duty ad quantitatem, and therefore the value does not appear. It need not be remarked that in all cases the entries subject to duty fall short of the truth. The productions of the Islands most wanted in Virginia are sugar and coffee. Between Sep<sup>r</sup> 1, '86, and July 20, '87, were entered 2,126,673<sup>lbs</sup> sugar, and 147,591 of coffee. Molasses also is wanted; and Taffia, perhaps, in a small degree. Cotton is raised in Virginia, as far as it is needed for domestic manufacture.

5. Est il vraisemblable que les eaux de vie de France fassent tomber entièrement le Rum des Isles? A quoi peut se monter la consommation annuelle des vins de France in Virginie?

5. It would be very difficult for brandy *entirely* to supplant rum. A moderate preference, however, would soon make it a formidable rival. The small encouragement hitherto given to brandy has had a very sensible effect in promoting the use of it, and as antecedent habits become weakened, the use will spread of itself. The brandies (doubtless from France, with very trifling exceptions) entered on the Custom-House books between Sept. 1, '86, and July 20, '87, amounted to 10,630 gallons; and it is conjectured that the direct importations not entered, with the considerable quantity introduced by the way of Maryland, where the duty has been lower, may amount to half as much. The Rum entered within that period amounted to 499,083 gallons; the Gin to 9,102 $\frac{1}{2}$  Gallons; and the cordials and other spirits to 4,169 $\frac{1}{2}$  Gals.

The Wines entered within the above periods amounted to 109,948 Gallons, on which quantity about 40,000 gal<sup>s</sup> were French.



6. Se sert on beaucoup du sel de France pour les salaisons et que faut il faire pour en rendre l'usage plus commun?

6. French salt is little, if at all, used in Virginia. The eye is displeased at its colour, and the supposition is favored by that circumstance that it is dirty and inferior to the British and other white salt.

The objection suggests the means of rendering the use more common.

7. La Virg<sup>e</sup> commence-t-elle à exporter elle même ses denrées et quelle est la proportion de sa navigation avec celle des autres nations pour le transport des tabacs et autres articles?

7. Of the vessels entered between the above dates, the American amounted to 26,705 tons; the British, and those of other nations not in alliance, 26,903 tons; the French, and those of other nations in alliance, 2,664 tons. The law having required no other discriminations, the Custom-House books do

not furnish a more particular answer.

8. Comme les Américains desireroient beaucoup d'obtenir de nouvelles faveurs dans nos Antilles, que pourroient-ils proposer pour faciliter un arrangement de cette nature sans trop préjudicier aux avantages que la France ne cesse de tirer de ses Colonies?

8. The answer to this important question ought to be the result of much information, as well as consideration. At present, Mr. M. is not prepared with such an one. Whenever he shall have formed an opinion on the subject which he thinks worth the attention of Count M., it shall be communicated.

TO G. L. TURBERVILLE.

NEW YORK, November 2d, 1788.

DEAR SIR,—Your favor of the 20th ultimo not having got into my hands in time to be acknowledged by the last mail, I have now the additional pleasure of acknowledging along with it your favor of the 24, which I received yesterday.

You wish to know my sentiments on the project of another general Convention, as suggested by New York. I shall give them to you with great frankness, though I am aware they may not coincide with those in fashion at Richmond, or even with your own. I am not of the number, if there be any such, who

think the Constitution lately adopted a faultless work. On the contrary, there are amendments which I wished it to have received before it issued from the place in which it was formed. These amendments I still think ought to be made, according to the apparent sense of America; and some of them, at least, I presume will be made. There are others concerning which doubts are entertained by many, and which have both advocates and opponents on each side of the main question. These, I think, ought to receive the light of actual experiment before it would be prudent to admit them into the Constitution. With respect to the first class, the only question is, which of the two modes provided be most eligible for the discussion and adoption of them.

The objections against a Convention which give a preference to the other mode, in my judgment, are the following: 1. It will add to the difference among the States on the merits another and an unnecessary difference concerning the mode. There are amendments which, in themselves, will probably be agreed to by all the States, and pretty certainly by the requisite proportion of them. If they be contended for in the mode of a Convention, there are unquestionably a number of States who will be so averse and apprehensive as to the mode, that they will reject the merits rather than agree to the mode. A Convention, therefore, does not appear to be the most convenient or probable channel for getting to the object. 2. A Convention cannot be called without the unanimous consent of the parties who are to be bound by it, if first principles are to be recurred to; or without the previous application of two-thirds of the State Legislatures, if the forms of the Constitution are to be pursued. The difficulties in either of these cases must evidently be much greater than will attend the origination of amendments in Congress, which may be done at the instance of a single State Legislature, or even without a single instruction on the subject. 3. If a general Convention were to take place for the avowed and sole purpose of revising the Constitution, it would naturally consider itself as having a greater latitude than the Congress appointed to administer and support as well as to

amend the system; it would consequently give greater agitation to the public mind; an election into it would be courted by the most violent partizans on both sides; it would probably consist of the most heterogeneous characters; would be the very focus of that flame which has already too much heated men of all parties; would no doubt contain individuals of insidious views, who, under the mask of seeking alterations popular in some parts but inadmissible in other parts of the Union, might have a dangerous opportunity of sapping the very foundations of the fabric. Under all these circumstances, it seems scarcely to be presumable that the deliberations of the body could be conducted in harmony, or terminate in the general good. Having witnessed the difficulties and dangers experienced by the first Convention, which assembled under every propitious circumstance, I should tremble for the result of a second, meeting in the present temper of America, and under all the disadvantages I have mentioned. 4. It is not unworthy of consideration that the prospect of a second Convention would be viewed by all Europe as a dark and threatening cloud hanging over the Constitution just established, and, perhaps, over the Union itself; and would therefore suspend, at least, the advantages this great event has promised us on that side. It is a well-known fact that this event has filled that quarter of the Globe with equal wonder and veneration; that its influence is already secretly but powerfully working in favor of liberty in France; and it is fairly to be inferred that the final event there may be materially affected by the prospect of things here. We are not sufficiently sensible of the importance of the example which this Country may give to the World, nor sufficiently attentive to the advantages we may reap from the late reform, if we avoid bringing it into danger. The last loan in Holland, and that alone, saved the United States from Bankruptcy in Europe; and that loan was obtained from a belief that the Constitution then depending would be certainly, speedily, quietly, and finally established, and by that means put America into a permanent capacity to discharge with honor and punctuality all her engagements.

## TO GENERAL WASHINGTON.

NEW YORK, November 5, 1788.

DEAR SIR,—The enclosed memorandum was put into my hands by Mr. St. John, the French Consul. He is a very worthy man, and entitled, by his philanthropy and zealous patronage of whatever he deems useful, to much esteem and regard. You will therefore oblige me by putting it in my power to afford him the little gratification he asks. I have another request to trouble you with, which concerns myself. Col. H. Lee tells me that he has purchased the tract of land through which the canal at the great falls is to run, and on which the basin will be, for £4,000. The tract contains 500 acres only, and is under the incumbrance of a rent of £150 sterling per annum; but, on the other hand, derives from its situation, as he supposes, a certain prospect of becoming immensely valuable. He paints it, in short, as the seat of an early town, the lots of which will be immediately productive, and possessing other peculiar advantages which make the bargain inestimable. In addition to many instances of his friendship, he tenders me a part in it, and urges my acceptance on grounds of advantage to myself alone. I am thoroughly persuaded that I am indebted for the proposal to the most disinterested and affectionate motives; but knowing that the fervor with which he pursues his objects sometimes affects the estimate he forms of them, and being in no condition to make hazardous experiments, it is advisable for me to have the sanction of other judgments to his opinions. You are well acquainted with the situation, and can at once decide whether it presents the material and certain advantages on which Col. Lee calculates. A *general intimation*, therefore, of the light in which the matter strikes you, will lay me under a very particular obligation. I am by no means sure that in any result it will be in my power to profit by Col. Lee's friendship, but it may be of some consequence whether the opportunity be worth attending to or not.

My information from Richmond is very unpropitious to federal policy. Yours is no doubt more full and more recent. A

decided and malignant majority may do many things of a disagreeable nature, but I trust the Constitution is too firmly established to be now materially vulnerable. The elections for the Legislature of Pennsylvania, New Jersey, and Maryland, ensure measures of a contrary complexion in those States. Indeed, Virginia is the only instance among the ratifying States in which the politics of the Legislature are at variance with the sense of the people, expressed by their Representatives in Convention. We hear nothing from Massachusetts or New Hampshire since the meeting of their general Courts. It is understood that both the appointments and arrangements for the Government will be calculated to support and, as far as possible, to dignify it. The public conversation seems to be not yet settled on the Vice President. Mr. Hancock and Mr. Adams have been most talked of. The former, *it is said*, rejects the idea of any secondary station; and the latter does not unite the suffrages of his own State, and is unpopular in many other places. As other candidates, however, are not likely to present themselves, and New England will be considered as having strong pretensions, it seems not improbable that the question will lie between the gentlemen above named. Mr. Jay and General Knox have been mentioned, but it is supposed that neither of them will exchange his present situation for an unprofitable dignity.

I shall leave this in a day or two, and am not yet finally determined how far my journey may be continued Southward. A few lines on the subject above mentioned will either find me in Philadelphia, or be there taken care of for me. Should anything occur here or elsewhere worth your attention, it shall be duly communicated by,

Dear Sir, your very respectful and affect<sup>e</sup> serv<sup>t</sup>.

TO EDMUND RANDOLPH.

PHILADELPHIA, NOV<sup>R</sup> 23d, 1788.

MY DEAR FRIEND,—Your two favors of the 5th and 10th instant have been duly received. The appointments for the Senate, communicated in the latter, answer to the calculations I had formed, notwithstanding the contrary appearances on which the former was founded. My only surprise is, that in the present temper and disproportionate number of the anti-federal part of the Assembly, my name should have been honored with so great a vote as it received. When this circumstance is combined with that of the characters which I have reason to believe concurred in it, I should be justly chargeable with a very mistaken ambition if I did not consider the event in the light which you anticipated. I shall not be surprised if the attempt should be equally successful to shut the door of the other House against me, which was the real object of my preference, as well for the reason formerly suggested to you, as for the additional one that it will less require a stile of life with which my circumstances do not square, and for which an inadequate provision only will probably be made by the public. Being not yet acquainted with the allotment of Orange in the districts, I can form no estimate of the reception that will be given to an offer of my services. The district in which I am told it is likely to be thrown, for the choice of an Elector, is a very monitory sample of what may and probably will be done in that way.

My present situation embarrasses me somewhat. When I left New York, I not only expected that the choice for the Senate would be as it is, but was apprehensive that the spirit of party might chuse to add the supposed mortification of dropping my name from the deputation to Congress for the fraction of a year remaining. I accordingly left that place under arrangements which did not require my return. At the same time, I had it in view, if left entirely to my option, to pass the winter or part of it there, being desirous of employing some of the time in matters which need access to the papers of Congress, and supposing, moreover, that I should be there master

more of my time than in Virginia. The opportunity of executing my plan is given me, I find, by one of the votes of the Assembly. On the other hand, I am now pressed by some of my friends to repair to Virginia, as a requisite expedient for counteracting the machinations against my election into the House of Representatives. To this, again, I am extremely disinclined, for reasons additional to the one above mentioned. It will have an electioneering appearance, which I always despised and wish to shun. And as I should shew myself in Orange only, where there will probably be little difficulty, my presence could have no very favorable effect; whilst it is very possible that such a mark of solicitude, strengthened by my not declining a reappointment to Congress, and now declining to serve in it, might, by a dexterous misinterpretation, be made to operate on the other side. These considerations are strong inducements to join my colleagues at New York, and leave things to their own course in Virginia. If Orange should fall into a federal district, it is probable I shall not be opposed; if otherwise, a successful opposition seems unavoidable. My decision, however, is not finally taken.

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TO GEN<sup>l</sup> WASHINGTON.

PHILADELPHIA, Dec. 2, 1788.

DEAR SIR,—The information conveyed in your favor of the 17 ult<sup>o</sup> lays me under great obligations. It was by no means my wish to have imposed the task of so full and particular a view of the subject. The general result in your own mind was all that I had in contemplation.

One of the papers herewith enclosed will shew you the state of the election for the Senate in Massachusetts. It was understood here that Mr. Bowdoin was appointed, and I have transmitted the error to some of my correspondents. New Hampshire has made choice of President Langdon and Judge Bartlett. New Jersey, of Mr. Patterson and Doct<sup>r</sup> Elmer. Delaware, of Mr. Reed and Mr. Bassett. South Carolina has post-

poned her choice till January. Mr. Izard, Mr. J. Rutledge, Mr. Butler, and Mr. C. Pinckney, are the subjects of conversation. Pennsylvania alone has arrived at the election for the other branch. The entire result is not yet known; but a sufficient number of the Counties have been heard from to warrant a confidence that 7 out of the 8, and a probability that the whole eight, will be found in the federal ticket. This prospect is, on the whole, auspicious; and shews the folly of Virginia, if the measures of the Legislature are to be taken for the sense of the State, in urging another Convention at this time. The real friends to the object professed by the leaders at Richmond ought to see that the only hope of obtaining alterations lies in not aiming at too many, and in being conciliatory as to the mode.

I came to this city with a view either to return to New York or proceed to Virginia, as circumstances might require. I was not sure that the spirit of party might not take pleasure in superseding the opportunity of remaining longer in New York. That, I find, has not been the case; and a task which I had assigned myself for the winter, or rather a part of it, would be favored by a situation in which I could have access to the papers of Congress. On this account, a return to New York for the ensuing fraction of a year would not be inconvenient. But I am pressed much in several quarters to try the effect of presence on the district into which I fall for electing a Representative, and am apprehensive that an omission of that expedient may eventually expose me to blame. At the same time, I have an extreme distaste to steps having an electioneering appearance, altho' they should lead to an appointment in which I am disposed to serve the public; and am very dubious, moreover, whether any step which might seem to denote a solicitude on my part would not be as likely to operate against as in favor of my pretensions. In this situation I am not clearly and finally decided as to the part which ought to be taken. When I see the Counties with which Orange is associated, I shall, perhaps, be more able to form some estimates which should influence my determination. This information I hourly expect, and in case



it should induce me to continue my course to Virginia, I shall leave this immediately, or at least as soon as I can bear the journey. I have for some time past been much indisposed with the piles. They have not yet entirely gone off, and may possibly detain me some days longer than the season would otherwise admit.

With every sentiment of esteem and affection, I am, D<sup>r</sup> Sir, your mo. obed. hble servant.

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TO THOMAS JEFFERSON.

PHILADELPHIA, Dec<sup>r</sup> 8, 1788.

DEAR SIR,—This will be handed to you by Mr. Gouverneur Morris, who will embark in a few days for Havre, from whence he will proceed immediately to Paris. He is already well known to you by character; and as far as there may be a defect of personal acquaintance I beg leave to supply it by this introduction.

My two last were of October 8 and 17th. They furnished a state of our affairs as they then stood. I shall here add the particulars of most consequence which have since taken place; remembering, however, that many details will be most conveniently gathered from the conversation of Mr. Morris, who is thoroughly possessed of American transactions.

Notwithstanding the formidable opposition made to the new federal Government, first, in order to prevent its adoption, and since, in order to place its administration in the hands of disaffected men, there is now both a certainty of its peaceable commencement in March next, and a flattering prospect that it will be administered by men who will give it a fair trial. General Washington will certainly be called to the Executive department. Mr. Adams, who is pledged to support him, will probably be the vice President. The enemies to the Government, at the head and the most inveterate of whom is Mr.

Henry, are laying a train for the election of Governor Clinton, but it cannot succeed unless the federal votes be more dispersed than can well happen. Of the seven States which have appointed their Senators, Virginia alone will have anti-federal members in that branch. Those of New Hampshire are President Langdon and Judge Bartlett; of Massachusetts, Mr. Strong and Mr. Dalton; of Connecticut, Doctor Johnson and Mr. Ellsworth; of New Jersey, Mr. Patterson and Mr. Elmer; of Pennsylvania, Mr. R. Morris and Mr. McClay; of Delaware, Mr. Geo. Reed and Mr. Bassett; of Virginia, Mr. R. H. Lee and Col. Grayson. Here is already a majority of the ratifying States on the side of the Constitution. And it is not doubted that it will be reinforced by the appointments of Maryland, South Carolina, and Georgia. As one branch of the Legislature of New York is attached to the Constitution, it is not improbable that one of the Senators from that State also will be added to the majority.

In the House of Representatives the proportion of anti-federal members will of course be greater, but cannot, if present appearances are to be trusted, amount to a majority, or even a very formidable minority. The election for this branch has taken place, as yet, no where except in Pennsylvania, and here the returns are not yet come in from all the Counties. It is certain, however, that seven out of the eight, and probable that the whole eight, representatives will bear the federal stamp. Even in Virginia, where the enemies to the Government form  $\frac{2}{3}$  of the *legislature*, it is computed that more than half the number of Representatives, who will be elected by the *people*, formed into districts for the purpose, will be of the same stamp. By some, it is computed that seven out of the ten allotted to that State will be opposed to the politics of the present Legislature.

The questions which divide the public at present relate—1. To the extent of the amendments that ought to be made to the Constitution. 2. To the mode in which they ought to be made. The friends of the Constitution, some from an approbation of particular amendments, others from a spirit of conciliation, are generally agreed that the system should be revised. But they

wish the revisal to be carried no farther than to supply additional guards for liberty, without abridging the sum of power transferred from the States to the general Government, or altering previous to trial the particular structure of the latter, and are fixed in opposition to the risk of another Convention, whilst the purpose can be as well answered by the other mode provided for introducing amendments. Those who have opposed the Constitution are, on the other hand, zealous for a second Convention and for a revisal, which may either not be restrained at all, or extend at least as far as alterations have been proposed by any State. Some of this class are, no doubt, friends to an effective Government, and even to the substance of the particular Government in question. It is equally certain that there are others who urge a second Convention with the insidious hope of throwing all things into confusion, and of subverting the fabric just established, if not the Union itself. If the first Congress embrace the policy which circumstances mark out, they will not fail to propose, of themselves, every desirable safeguard for popular rights; and by thus separating the well-meaning from the designing opponents, fix on the latter their true character, and give to the Government its due popularity and stability.

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I am a stranger to the errand on which G. Morris goes to Europe. It relates, I presume, to the affairs of R. Morris, which are still much deranged.

I have received and paid the draught in favor of Doct. Ramsay. I had before paid the order in favor of Mr. Thompson, immediately on the receipt of your letter. About 220 dollars of the balance due on the last state of our account were left in Virginia for the use of your nephew. There are a few lesser sums which stand on my side of the account which I shall take credit for, when you can find leisure to forward another statement of your friendly advances for me.

I shall leave this place in a day or two for Virginia, where my friends, who wish me to co-operate in putting our political machine into activity as a member of the house of Representatives, press me to attend. They made me a candidate for the

Senate, for which I had not allotted my pretensions. The attempt was defeated by Mr. Henry, who is omnipotent in the present Legislature, and who added to the expedients common on such occasions a public philippic against my federal principles. He has taken equal pains in forming the Counties into Districts, for the election of Representatives, to associate with Orange such as are most devoted to his politics, and most likely to be swayed by the prejudices excited against me. From the best information I have of the prevailing temper of the District, I conclude that my going to Virginia will answer no other purpose than to satisfy the opinions and entreaties of my friends. The trip is in itself very disagreeable, both on account of its electioneering appearance and the sacrifice of the winter, for which I had assigned a task which the intermission of Congressional business would have made convenient at New York.

With the sincerest affection and the highest esteem, I am, dear sir, yours.

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TO PHILIP MAZZEI, ESQ.

PHILADELPHIA, 10 December, 1788.

Your book, as I prophesied, sells nowhere but in Virginia. A very few copies only have been called for either in New York or in this city. The language in which it is written will account for it. In order to attract notice, I translated the panegyric in the French *Mercure*, and had it made part of the advertisement. I did not translate the comment on the Federal Constitution, as you wished, because I could not spare the time, as well as because I did not approve the tendency of it. Some of your remarks prove that Horace's "*Calum non animum mutant qui trans mare currunt*" does not hold without exception. In Europe, the abuses of power continually before your eyes have given a bias to your political reflections which you did not feel in equal degree when you left America, and which you would feel less of if you had remained in America. Philoso-

phers on the old continent, in their zeal against tyranny, would rush into anarchy; as the horrors of superstition drive them into Atheism. Here, perhaps, the inconveniences of relaxed government have reconciled too many to the opposite extreme. If your plan of a single Legislature, as in Pennsylvania, &c., were adopted, I sincerely believe that it would prove the most deadly blow ever given to Republicanism. Were I an enemy to that form, I would preach the very doctrines which are preached by the enemies to the government proposed for the United States. Many of our best citizens are disgusted with the injustice, instability, and folly, which characterize the American Administrations. The number has for some time been rapidly increasing. Were the evils to be much longer protracted, the disgust would seize citizens of every description.

It is of infinite importance to the cause of liberty to ascertain the degree of it which will consist with the purposes of society. An error on one side may be as fatal as on the other. Hitherto, the error in the United States has lain in the excess.

All the States except North Carolina and Rhode Island have ratified the proposed Constitution. Seven of them have appointed their Senators, of whom those of Virginia, R. H. Lee and Col. Grayson, alone are among the opponents of the system. The appointments of Maryland, South Carolina, and Georgia, will pretty certainly be of the same stamp with the majority. The House of Representatives is yet to be chosen everywhere except in Pennsylvania. From the partial returns received, the election will wear a federal aspect, unless the event in one or two particular counties should contradict every calculation. If the eight members from this State be on the side of the Constitution, it will in a manner secure the majority in that branch of the Congress also. The object of the Anti-Federalists is to bring about another general Convention, which would either agree on nothing, as would be agreeable to some, and throw everything into confusion, or expunge from the Constitution parts which are held by its friends to be essential to it. The latter party are willing to gratify their opponents with every

supplemental provision for general rights, but insist that this can be better done in the mode provided for amendments.

I remain, with great sincerity, your friend and servant.

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TO THOMAS JEFFERSON.

PHILADELPHIA, Dec<sup>r</sup> 12th, 1788.

DEAR SIR,—The inclosed letter has been just sent me by Miss Rittenhouse, and I avail myself of the delay of Mr. Morris to give it a conveyance. Since mine already in the hands of Mr. Morris, further returns have been received from the Western Counties of this State, which, though not the entire residue, reduce the final result to certainty. There will be seven representatives of the federal party, and one a moderate anti-federalist. I consider this choice as ensuring a majority of friends to the federal Constitution in both branches of the Congress; as securing the Constitution against the hazardous experiment of a second Convention; and, if prudence should be the character of the first Congress, as leading to measures which will conciliate the well meaning of all parties, and put our affairs into an auspicious train.

I am charged by a Monsieur St. Trise, who is here, with his compliments to you. He is an officer in the French Cavalry, and appears to be an agreeable, worthy man.

With every sentiment of esteem and attachment, I am, dear sir, your friend and servt.

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TO GEORGE EVE.

January 2d, 1789.

SIR,—Being informed that reports prevail not only that I am opposed to any amendments whatever to the new federal Con-

stitution, but that I have ceased to be a friend to the rights of conscience; and inferring from a conversation with my brother William that you are disposed to contradict such reports, as far as your knowledge of my sentiments may justify, I am led to trouble you with this communication of them. As a private citizen, it could not be my wish that erroneous opinions should be entertained with respect to either of those points, particularly with respect to religious liberty. But having been induced to offer my services to this district as its representative in the federal Legislature, considerations of a public nature make it proper that, with respect to both, my principles and views should be rightly understood.

I freely own that I have never seen in the Constitution, as it now stands, those serious dangers which have alarmed many respectable Citizens. Accordingly, whilst it remained unratified, and it was necessary to unite the States in some one plan, I opposed all *previous* alterations as calculated to throw the States into dangerous contentions, and to furnish the secret enemies of the Union with an opportunity of promoting its dissolution. Circumstances are now changed. The Constitution is established on the ratifications of eleven States and a very great majority of the people of America; and amendments, if pursued with a proper moderation and in a proper mode, will be not only safe, but may serve the double purpose of satisfying the minds of well meaning opponents, and of providing additional guards in favour of liberty. Under this change of circumstances, it is my sincere opinion that the Constitution ought to be revised, and that the first Congress meeting under it ought to prepare and recommend to the States for ratification the most satisfactory provisions for all essential rights, particularly the rights of conscience in the fullest latitude, the freedom of the press, trials by jury, security against general warrants, &c. I think it will be proper, also, to provide expressly in the Constitution for the periodical increase of the number of Representatives, until the amount shall be entirely satisfactory, and to put the judiciary department into such a form as will render vexatious appeals impossible. There are sundry other altera-

tions which are either eligible in themselves, or, being at least safe, are recommended by the respect due to such as wish for them.

I have intimated that the amendments ought to be proposed by the first Congress. I prefer this mode to that of a General Convention—1<sup>st</sup>. Because it is the most expeditious mode. A Convention must be delayed until two-thirds of the State Legislatures shall have applied for one, and afterwards the amendments must be submitted to the States; whereas if the business be undertaken by Congress, the amendments may be prepared and submitted in March next. 2<sup>dly</sup>. Because it is the most certain mode. There are not a few States who will absolutely reject the proposal of a Convention, and yet not be averse to amendments in the other mode. Lastly. It is the safest mode. The Congress, who will be appointed to execute as well as to amend the Government, will probably be careful not to destroy or endanger it. A Convention, on the other hand, meeting in the present ferment of parties, and containing, perhaps, insidious characters from different parts of America, would at least spread a general alarm, and be but too likely to turn everything into confusion and uncertainty. It is to be observed, however, that the question concerning a General Convention will not belong to the federal Legislature. If two-thirds of the States apply for one, Congress cannot refuse to call it; if not, the other mode of amendments must be pursued.

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TO GENERAL WASHINGTON.

ORANGE, Jan<sup>y</sup> 14, 1789.

DEAR SIR,—Your favor of the 2d instant, with the letters attending it, never came to hand 'til last evening. I have good reason to believe that the delay happened between Alexandria and Fredericksburg, rather than at or from the latter place. Mr. F. Maury pays particular attention to all letters which arrive there for me, and forwards them to Orange by opportunities which are frequent and safe. I apprehend there will be no im-



propriety in committing a confidential letter to that channel. As an additional precaution, I will desire him to be particularly attentive to any letter which may have your name on it.

I have heard from two only of the returns from the Electoral districts;\* the one in favor of Mr. Gilchrist, the other of General Stevens. He succeeded against Col. Cabell by a majority of 82 votes.† He owes his success to the coalition between the two parties in Spottsylvania. My situation is unfavorable for intelligence from the State at large, and therefore I can say little of the prospects as to the February election.

I fear, from the vague accounts which circulate, that the federal Candidates are likely to stand in the way of each other. This is not the case, however, in my district. The field is left entirely to Monroe and myself. The event of our competition will probably depend on the part to be taken by two or three descriptions of people, whose decision is not known, if not yet to be ultimately formed. I have pursued my pretensions much further than I had premeditated, having not only made great use of epistolary means, but actually visited two Counties, Culpeper and Louisa, and publicly contradicted the erroneous reports propagated against me. It has been very industriously inculcated that I am dogmatically attached to the Constitution

\* For choosing electors of President and Vice President.

† Stevens.	Cabell.
109	71 Albemarle.
	270 Amherst.
15	66 Fluvanna.
268	10 Spottsylvania.
113	4 Orange.
177	26 Culpeper.
4	157 Buckingham.
<hr/> 686	<hr/> 604

82 bal. in favor of Stevens.

The unanimity in Amherst was produced by a previous declaration, as I am told, of Col. Cabell, on the subject of the president, which satisfied the Federal party. Little attention seems to have been paid anywhere to the Vice President. Among the bulk of the people, the choice of the President has been regarded as the sole subject of the election.

in every clause, syllable, and letter, and therefore not a single amendment will be promoted by my vote, either from conviction or a spirit of accommodation. This is the report most likely to affect the election, and most difficult to be combated with success within the limited period. There are a number of others, however, which are auxiliaries to it. With my respectful compliments to Mrs. Washington, and the others of your family,

I remain, Dear Sir, your mo. obed<sup>t</sup> and affect. Serv<sup>t</sup>.

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TO EDMUND RANDOLPH.

ALEXANDRIA, March 1st. 1789.

MY DEAR FRIEND,—This is the first convenient opportunity I have had for dropping you a line since I last came into the State. Your sanction to my remaining in New York during the crisis of the elections, conveyed through Col. Carrington, never came to hand till I had arrived in Orange. It coincided so fully with my inclination, and, indeed, with my judgment, that had it been received in due time, I do not know but I should have disregarded all the pressing exhortations which stood opposed to your opinion. I am persuaded, however, that my appearance in the district was more necessary to my election than you then calculated. In truth, it has been evinced by the experiment that my absence would have left a room for the calumnies of anti-federal partizans, which would have defeated much better pretensions than mine. In Culpeper, which was the critical County, a continued attention was necessary to repel the multiplied falsehoods which circulated. Whether I ought to be satisfied or displeased with my success, I shall hereafter be more able to judge. My present anticipations are not flattering. I see on the lists of Representatives a very scanty proportion who will share in the drudgery of business. And I foresee contentions, first between federal and anti-federal parties, and then between Northern and Southern parties, which

give additional disagreeableness to the prospect. Should the State Elections give an anti-federal colour to the Legislatures, which, from causes not anti-federal in the people, may well happen, difficulties will again start up in this quarter, which may have a still more serious aspect on the Congressional proceedings.

In my last, or one of my last letters, was enclosed a quere from Mr. St. John, the French Consul at New York, relating to the law here which regulates the recording of deeds, &c. As I shall on my return be applied to for an answer, I will thank you for the proper one as soon as your leisure will allow.

I shall go on from this to-morrow. On my arrival I shall attend as far as I can to whatever may deserve your perusal. Besides the private satisfaction which I shall have in the continuance of our correspondence, I promise myself the benefit of your suggestions on public subjects.

Present me respectfully to Mrs. R., and rely on the affection with which I remain, yours truly.

As your neighborhood gives you frequent interviews with the President of William and Mary, remind him of my best regards to him.

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TO GENERAL WASHINGTON.

BALTIMORE, March 5th, 1789.

DEAR SIR,—On our Journey hither, we have fallen in with the bearer of the Electoral votes of Georgia. They are unanimous as to the President, and are all thrown away on Individuals of the State as to the Vice president. The Representatives were not chosen when the gentleman set out, but the election was to take place in a day or two after. General Matthews, he tells us, will be one, Mr. Baldwin another, and the third either Mr. Osborne or Gen<sup>l</sup> Jackson. All the candidates, I understand, are well affected to the Constitution. In South

Carolina the votes for President were also unanimous, as the gentleman informs us. Of the others, 5 were given to Mr. Rutledge, and the remaining two to Mr. Adams.

The badness of the roads and the weather prevented our getting to this place sooner than last evening, by which means we lose two days. R. H. Lee left this on his way to New York on Monday morning. Mr. White had preceded him a day or two.

With the highest respect and mo. affect. attachment, I am,  
D<sup>r</sup> Sir, Y<sup>rs</sup>.

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TO GENERAL WASHINGTON.

PHILADELPHIA, March 8, 1789.

DEAR SIR,—We arrived here yesterday evening, where we have met with Mr. Dawson, just from New York. When he left it, eighteen representatives and eight senators had assembled. It is not certain when the deficiencies will be made up. The most favorable conjectures postpone it to Monday se'nnight. The members attending are chiefly from the Eastward. I do not learn that a single member, except Mr. White, is from a State south of Pennsylvania; unless, indeed, D<sup>r</sup> Tucker is to be included in the exception. The New Jersey Representatives are not yet announced. Mr. Clarke, it is supposed, will be one; Mr. Cadwallader, Mr. Boudinot, and Mr. Skureman, are talked of as the others.

I find that the communication made you from Kentucky corresponds with an official letter to Congress from Governor St. Clair, which speaks of the same emissary, and the same errand. Notice has been transmitted of the affair to the executive of Virginia, in order that regular steps may be taken, if sufficient ground be afforded, for apprehending the incendiary. The project of Geo. Morgan for establishing a colony beyond the Mississippi is also going on. It is the opinion of Mr. Brown,

as explained to Mr. Griffin, that emigrations to the Spanish Territory will be enticed from Kentucky as rapidly as the allurements of the latter place have obtained them from the Atlantic States. All these circumstances point out the conduct which the new government ought to pursue with regard to the Western Country and Spain.

I dropped you a few lines from Baltimore, mentioning the unanimity of the electoral vote of South Carolina and Georgia for a President, and the manner in which the secondary votes were disposed of.

I am, dear sir, yours truly and affectionately.

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TO GENERAL WASHINGTON.

NEW YORK, March 19, 1789.

DEAR SIR,—On our arrival here we found that the number of Representatives on the spot had been stationary from the second day of the meeting. Mr. Page, Mr. Lee, and myself, raised it to 21, and Mr. S. Griffin and Mr. Moore have been since added. The number of attending Senators continues at eight. When a quorum will be made up in either House rests on vague conjecture rather than on any precise information. It is not improbable, I think, that the present week will supply the deficiency in one, if not in both of them. The States most convenient are among the defaulters. It will not be known, I am told, in this State, who the Representatives are, till some time next month. The federal party calculate on an equal division of the six. Mr. Lawrence for the city district, Mr. Floyd for the Long Island district, and Mr. Benson for a third. In New Jersey the election has been conducted in a very singular manner. The law having fixed no time expressly for closing the polls, they have been kept open three or four weeks in some of the counties, by a rival jealousy between the Eastern and western divisions of the State; and it seems uncertain when they would have been closed if the governor had not interposed,

by fixing on a day for receiving the returns, and proclaiming the successful candidates. The day is passed, but I have not heard the result. The Western ticket in favor of Skureman, Boudinot, Cadwallader, and Semmickson, if this be the name, is supposed to have prevailed; but an impeachment of the election by the unsuccessful competitors has been talked of. Two of the Representatives from Massachusetts are also unknown to us. In one of the districts it is supposed that a disaffected man has prevailed.

An English packet has been long expected, and is not yet arrived. The state of foreign news remains, of consequence, little altered. The accounts of latest date, through other channels, shew that the progress in France towards a constitutional establishment is unchecked, and that a coalition between the king and the commons against the nobility and clergy will direct the innovations.

With respectful compliments to Mrs. Washington and the rest of the family, I am, dear sir, truly and affect<sup>s</sup>, your obt serv<sup>t</sup>.

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TO GENERAL WASHINGTON.

NEW YORK, Mar. 26, 1789.

DEAR SIR,—The inclosed copy of Morgan's invitation to his fellow-citizens was obtained from one of his friends, and forwarded to me from Pennsylvania. It is the most authentic and precise evidence of the Spanish project that has come to my knowledge. The instrument referred to as retained in Morgan's hands, in order to be signed by the adventurers, would still further explain the transaction.

No Quorum is yet formed in either house. The Senate want two members; the House of Rep<sup>s</sup> four. It is probable that the members from N. Jersey, who are at length proclaimed, two remaining members from Penn<sup>a</sup>, and Col. Coles, who halted in Philad<sup>a</sup>, will come in this evening, and supply the deficiency in

one Branch. The Senate have no precise prospect of the small addition required to their numbers.

With unfeigned attachment, &c., &c.

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*[Put into the hands of confidential people in Pennsylv<sup>a</sup> and N. Jersey, for the purpose of procuring followers.]*

Several gentlemen who propose to make settlements in the Western Country mean to reconnoitre and survey the same the ensuing winter. All farmers, Tradesmen, &c., of good characters, who wish to unite in\* the scheme and to visit the Country under my direction, shall be provided with boats and provisions for the purpose, free of expense, on signing an agreement, which may be seen by applying to me at Prospect, near Princeton, on or before the 8th day of October next, or at Fort Pitt by the 10th day of November next. The boats which will be employed on this expedition are proposed to be from 40 to 60 feet long, to row with 20 oars each, and to carry a number of swivels. Each man to provide himself with a good fire-lock or rifle, ammunition, and one blanket, or more if he pleases. Such as choose tents or other conveniences must provide them themselves. Every person who accompanies me on this undertaking shall be entitled to 320 acres of land, at  $\frac{1}{8}$  of a dollar per acre. Those who first engage to have the preference of surveys, which, however, each person may make on such part of the whole tract as he pleases, taking none but his choice of the best lands, provided† such survey is either square or oblong, whose sides are East, West, North, and South; 640 acres or more being first reserved for a Town, which I propose to divide into lots of one acre each, and give 600 of them in fee to such Merchants, tradesmen, &c., as may apply on the spot, and 40 of

\* "This scheme," in the copy of this paper sent by Mr. Madison to Mr. Jefferson.

† "Each survey."—Ibid.

them to such public uses as the inhabitants shall from time to time recommend, together with one out-lot of ten acres to each of the first 600 families who shall\* settle in the Town. All persons who settle with me at New Madrid, and their posterity, will have the free navigation of the Mississippi, and a market at New Orleans, free from duties, for all the produce of their lands, where they may receive payment in Mexican Dollars for their flour, Tobacco, &c.

It is proposed, after fixing on the spot, to clear and fence in one hundred acres in a convenient situation, to plant it with corn, to hire suitable hands to tend it thro' the summer, and in the next fall, winter, and spring, to distribute it to† new settlers at  $\frac{1}{3}$  of a dollar per bushel, that they may have a dependence so far as this will go. And as buffaloes and other game are very plenty in the neighborhood there can be no want of provision, contractors being ready to engage to deliver fresh beef and venison throughout the year at 1 penny per pound. Credit will be given to those who desire it, as well for the land as‡ for the provisions, and payment received in future produce. All persons will be assisted in building a House, clearing a spot of ground, and in getting in their first crops. Horned cattle, horses, and swine, will be delivered to the settlers at New Madrid in such quantities as they shall stand in need of at first, at very reasonable rates for cash|| or future produce. Those who settle at New Madrid in this or the ensuing year shall have plough-irons, or other Iron works, and farming utensils, transported down the Ohio gratis; also their clothing, bedding, kitchen furniture, and certain other articles which may not be too bulky.

Schoolmasters will be engaged immediately for the instruction of youth. Ministers of the Gospel will meet with encouragement, and grants of land made in fee to each§ of every de-

\* "Build and settle," in the copy sent to Mr. Jefferson.

† "All new settlers."—*Ibid.*

‡ "For provisions."—*Ibid.*

|| "Or produce."—*Ibid.*

§ "And every."—*Ibid.*



nomination who may agree with a congregation before the year 1790, besides particular grants of tracts of land to each Society.

This new city is proposed to be built on a high bank of the Mississippi River, near the mouth of the Ohio, in the richest and most healthy part of the Western Country, about the latitude of  $37^{\circ}$ .

Those who wish for further information will be pleased to apply to me in person as above mentioned, or at the new City of Madrid after the first day of next Dec<sup>r</sup>, where the Surveyors will attend to lay out the lands.

(Signed.)

OCT<sup>R</sup> 3d, 1788.

GEORGE MORGAN.

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TO THOMAS JEFFERSON.

NEW YORK, March 29th, 1789.

DEAR SIR,—My last was committed in December to Mr. Gouverneur Morris. I was then on my way to Virginia. The elections for the new government commenced shortly after my arrival. The first was of Electors, to Ballot for a President and Vice President. The successful candidates were General Wood, Mr. Zach<sup>y</sup> Johnson, Gen<sup>l</sup> Edward Stephens, Doctor David Stuart, Mr. W. Fitzhugh of Chatham, Mr. Warner Lewis of Gloucester, Mr. Jno. Harvey, Mr. Walk, of or near Norfolk, Mr. Kello of Southampton. These nine were federalists. The remaining three, Mr. Patriek Henry, Mr. Roane of King and Queen, and Mr. Pride of Amelia, were of the adverse party. Two of the former party did not attend. The votes were unanimous with respect to General Washington, as appears to have been the case in each of the States. The secondary votes were given, among the federal members, chiefly to Mr. J. Adams, one or two being thrown away in order to prevent a possible competition for the Presidency. Governor Clinton was the secondary choice of the anti-federal members. In the succeeding election of Representatives, federalism was also

proved to be the prevailing sentiment of the people. The successful candidates on this list are Mr. Moore, late of the Executive Council, (from Rockingham,) Mr. Alexander White, Mr. Richard Bland Lee, Mr. John Page, (Rosewell,) Mr. Samuel Griffin, Mr. Brown, member of the old Congress, (from Kentucky,) J. Madison, Col. Parker, (late nav. officer at Norfolk,) Col. Isaac Coles, (of Halifax,) and Col. Bland. Of these, the seven first have been on the side of the Constitution; the three last in the opposition. Col. Parker appears to be very temperate, and it is not probable that both the others will be very inveterate. It was my misfortune to be thrown into a contest with our friend, Col. Monroe. The occasion produced considerable efforts among our respective friends. Between ourselves, I have no reason to doubt that the distinction was duly kept in mind between political and personal views, and that it has saved our friendship from the smallest diminution. On one side I am sure it is the case.

Notwithstanding the lapse of time since the birthday of the new Government, (the 4th of March,) I am under the necessity of informing you that a quorum is not yet formed, either in the Senate or House of Representatives. The season of the year, the peculiar badness of the weather, and the short interval between the epoch of election and that of meeting, form a better apology for the delay than will probably occur on your side of the Atlantic. The deficiency at present in the House of Representatives requires two members only for a Quorum, and in the Senate one only. A few days will, therefore, fit the Body for the first step, to wit, opening the Ballots for the President and Vice President. I have already said that General Washington will be the first by a unanimous suffrage. It is held to be certain that Mr. Adams, though refused a great many votes from different motives, will have the second appointment. A considerable delay will be unavoidable, after the ballots are counted, before the President can be on the spot, and, consequently, before any Legislative act can take place. Such a protraction of the inactivity of the Government is to be regretted on many accounts, but most on account of the loss of

revenue. A prospect of the Spring importations led to the appointment of the first meeting at a time which, in other respects, was unseasonable.

It is not yet possible to ascertain precisely the complexion of the new Congress. A little time will be necessary to unveil it, and a little will probably suffice. With regard to the Constitution, it is pretty well decided that the disaffected party in the Senate amounts to two or three members only; and that in the other House it does not exceed a very small minority, some of which will also be restrained by the federalism of the States from which they come. Notwithstanding this character of the Body, I hope and expect that some conciliatory sacrifices will be made, in order to extinguish opposition to the system, or at least break the force of it, by detaching the deluded opponents from their designing leaders. With regard to the system of policy to which the Government is capable of rising, and by which its genius will be appreciated, I wait for some experimental instruction. Were I to advance a conjecture, it would be, that the predictions of an anti-democratic operation will be confronted with at least a sufficient number of the features which have marked the State Governments.

Since my arrival here I have received your favor of November 18th. It had been sent on to Virginia; but not reaching Fredericksburg before I passed that place, it followed me back hither. I am much concerned that your scheme of passing the ensuing summer in your native country has been defeated. Mr. Jay, with whom I have conversed on the subject, tells me that his answer to your public letter has explained the impossibility of giving effect to your wishes, no Congress having been formed under the old Confederation since the receipt of your letter, or, indeed, since the expiration of the last federal year. The most that can now be done will be to obtain from the new authority, as early as possible, some act which may leave the matter to your own discretion. Perhaps it may be neither more inconvenient to your private nor to the public affairs to make your visit in the fall instead of the Spring, and to pass the Winter instead of the Summer in America. The same cause on which

you are to charge your disappointment in this instance prevented a decision on the question of outfit, stated in one of your former communications.

With some printed papers containing interesting articles, I inclose a manuscript copy of Col. Morgan's invitation\* to persons disposed to seek their fortunes on the Spanish side of the Mississippi. There is no doubt that the project has the sanction of Gardoqui. It is a silly one on the part of Spain, and will probably end like the settlements on the Roman side of the Danube, with the concurrence of the declining empire. But it clearly betrays the plan suggested to you in a former letter, of making the Mississippi the bait for a defection of the Western people. Some of the leaders in Kentucky are known to favor the idea of connection with Spain. The people are as yet inimical to it. Their future disposition will depend on the measures of the new Government.

I omitted to mention that a dispute between the Senate of this State, which was federal, and the other branch, which was otherwise, concerning the manner of appointing Senators for the Congress, was so inflexibly persisted in that no appointment was made during the late session, and must be delayed for a considerable time longer, even if the dispute should on a second trial be accommodated. It is supposed by some that the superintending power of Congress will be rendered necessary by the temper of the parties. The provision for the choice of electors was also delayed until the opportunity was lost; and that for the election of Representatives so long delayed that the result will not be decided till tuesday next. It is supposed that at least three out of the six will be of the federal party. In New Jersey, the inaccuracy of the law providing for the choice of Representatives has produced an almost equal delay, and left room for contests, which, if brought by the disappointed candidates into the House, will add a disagreeable article to the list of its business.

I am much obliged for the two estimates on the subject of

\* See this paper, ante pp. 455—457.

our foreign debt, and shall turn your ideas to the account which they deserve.

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TO GENERAL WASHINGTON.

NEW YORK, April 6th, 1789.

DEAR SIR,—The arrival of R. H. Lee yesterday has made up a quorum of the Senate. A quorum in the other house was made on Wednesday last. The ballots will be opened to-day, unless an indisposition of Mr. Basset should prevent; which was not probable yesterday afternoon. The notifications of the President and vice President will be left to the Senate. Mr. Charles Thomson will be the messenger to the former.

The papers will have made known that Mr. Muhlenburg was the choice of the Representatives for their speaker, and Mr. Beckley for their clerk. The competitor of the former was Mr. Trumbull, who had a respectable vote; of the latter, Mr. S. Stockton, of New Jersey, who, on the first ballot, had the same number with Mr. Beckley. A British packet arrived some days ago, but has not brought, as far as I have learned, any public letters. The other information brought has passed into our Gazettes, and will have reached you through that channel.

I am, dear Sir, with the highest respect and attachment, your obed<sup>t</sup> and very h<sup>ble</sup> servt.

Your favor, enclosing a letter received at Mount Vernon for me, has been duly received.

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TO EDMUND PENDLETON.

NEW YORK, April 8th, 1789.

DEAR SIR,—You will not learn without some surprize that the sixth of this month arrived before a quorum was made up in both branches of the new Legislature, and the first of the

month before a Quorum was attained in either. The first and only joint step taken by the Congress was the examination of the ballots for President and vice president. The votes were found, as was expected, to be unanimously given to General Washington; and a sufficient number, though smaller than was expected, to give the secondary dignity to Mr. Adams. The entire number of votes was 69. Mr. Adams had 34 only. Governour Clinton had not a single vote except those of his three friends in Virginia. Mr. Charles Thomson set out yesterday as the herald to Mount Vernon, and a private gentleman with notice to the vice president. The Speaker of the House of Representatives is Mr. Muhlenburg, of Pennsylvania. The Clerk, Mr. Beckley. Mr. Langdon was placed in the chair of the Senate for the special purpose of opening the ballots, and will remain in it until Mr. Adams arrives. The Clerk of that House is not yet appointed.

I inclose a copy of the Rules agreed on yesterday. They are to receive a supplement as soon as prepared by a Committee. The first regular business to be discussed will relate to commerce, which is in a state of anarchy at present. Some propositions on that subject will be taken up to-morrow. It is thought proper that the preparatory work should be done before the arrival of the President. The subject of amendments has not yet been touched. From appearances there will be no great difficulty in obtaining reasonable ones. It will depend, however, entirely on the temper of the federalists, who predominate as much in both branches as could be wished. Even in this State, notwithstanding the violence of its anti-federal symptoms, three of its six representatives at least will be zealous friends to the Constitution; and it is not improbable that a fourth will be of the same description.

By a late British packet we understand that the King continues under his disability, though without mortal symptoms; that the care of his person is committed to the Queen, and that the Prince of Wales is sole Regent by an act of the two Houses. but under certain limitations of power, which have produced a pointed and public discussion between him and Mr. Pitt.

## TO EDMUND RANDOLPH.

NEW YORK, April 12, 1789.

MY DEAR FRIEND,—I am just favored with yours of the 27th Ultimo. My last was sent from Alexandria, and as the receipt of it is not mentioned, I fear that it may have miscarried. I have not sooner written from this place because I waited for an opportunity of collecting the features and complexion of the new Government, which, in its Legislative capacity, never became practically organized till the 6th instant, and in its Executive capacity will not be so for 10 or 15 days.

The subject taken up in this House is an impost. Opinions are divided on the point whether the first plan shall be a hasty and temporary essay, or be digested into a form as little imperfect as the want of experience will admit. There are plausible arguments on both sides. The former loses ground daily, from the apparent impracticability of reaping the Spring harvest from importations. It is probable that the law will, in the event, be limited to a longer or a shorter duration, according to the accuracy and extent which can within a decent time be given to its provisions. I need not remark to you the difficulty of the work. Nothing but experience and successive revisions can render it tolerably adequate and respectable. There will be difficulty, also, in adjusting a scale of duties, &c., to the different ideas and interests of different States and Statesmen. But I suspect the latter difficulty will be less perplexing than the former, though I know a contrary apprehension has prevailed. The Senate have appointed a Committee on the subject of the Judiciary Department.

On the subject of amendments, nothing has been publicly, and very little privately, said. Such as I am known to have espoused will, as far as I can gather, be attainable from the federalists, who sufficiently predominate in both branches, though with some the concurrence will proceed from a spirit of conciliation rather than conviction. Connecticut is least inclined, though I presume not inflexibly opposed, to a moderate revision. A paper, which will probably be republished in the

Virginia Gazette, under the signature of a citizen of New Haven, unfolds *Mr. Sherman's* opinions. Whatever the amendments may be, it is clear that they will be attempted in no other way than through Congress. Many of the warmest of the opponents of the Government disavow the mode contended for by Virginia.

I wish I could see an equal prospect of appeasing the disquietude on the two other points you mention—British debts and taxes. With respect to the first, you know my sentiments. It will be the duty of the Senate, in my opinion, to promote regulations with Great Britain as speedily as circumstances will admit, and the aspect of the Government seems likely to command a respectful attention to its measures. I see nothing else that can be done. As to the taxes, I see nothing that can be done more than the ordinary maxims of policy suggest. They may certainly be diminished in consequence of the revolution in the federal Government, since the public wants will be little if at all increased, and may be supplied in greater proportion out of commerce.

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TO EDMUND PENDLETON.

NEW YORK, April 19, 1789.

DEAR SIR,—My last was committed to Major Rogers, of your County, who embarked some days ago from this place for Virginia. I have been since favoured with yours of the 7th instant, and am much and truly gratified with the proof it contains of your good health.

We have not yet either the President or vice President on the ground. The former is expected in a few days. The latter, we are told, will certainly come in to-morrow evening. Preparations are making by the Inhabitants for the reception of both; for that of the former in a very splendid style.

The House of Representatives is still occupied with the impost. It is a subject which is not very simple in itself, and is rendered not a little difficult by the diversity of State regula-



tions; by the total want of regulations in several States; by the case of Rhode Island and North Carolina, not yet parties to the Constitution; and by the law of Virginia disqualifying State officers, Judiciary, as well as others, from executing federal functions. The latter circumstance seems to threaten additional delay, since it may require some special provision of a Judiciary nature for cases of seizure, &c., until the Judiciary department can be systematically arranged; and may even then oblige the federal Legislature to extend its provisions farther than might otherwise be necessary. In settling the rate of duties, the ideas of different quarters, Northern and Southern, Eastern and Western, do not entirely accord; but the difficulties are adjusted as easily as could be well expected. If the duties should be raised too high, the error will proceed as much from the popular ardor to throw the burden of revenue on trade as from the premature policy of stimulating manufactures.

Several vessels are just arrived from England. They report that the King was getting much better, and the nation flattered with a hope of his being soon able to resume the reins of Government. Should his recovery amount to a lucid interval only, and successive relapses mark his future situation, the case will become more singular and perplexing than ever.

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TO THOMAS JEFFERSON.

NEW YORK, May 9, 1789.

DEAR SIR,—My last was of the 29th March. A few days ago I had the pleasure of yours of the 12 January. I thank you for your attention to the works of the Abbe Barthelémy and the Marquis Condorcet, and wish much that your attempts to procure me a genuine copy of the King of Prussia's may succeed.

I send you herewith the first N. of the Congressional Register, which will give you *some idea* of the discussions in the new Legislature. You will see at once the strongest evidences of mutilation and perversion, and of the illiteracy of the Editor.

The following Numbers shall go after it, as conveyances occur, unless they should be found wholly unworthy of it. The deliberations of the House of Representatives have been chiefly employed on the subject of an Impost. Opinions have been considerably divided on the quantum of duties that would be practicable, and, in some instances, on the ratio of different duties likely to operate differently in different States that would be just. In general, the interests and ideas of the Northern and Southern States have been less adverse than was predicted by the opponents or hoped by the friends of the new Government. Members from the same State, or the same part of the Union, are as often separated on questions from each other as they are united in opposition to other States or other quarters of the continent. This is a favorable symptom. The points on which most controversy has been raised are: 1<sup>st</sup>. The duty on molasses. 2. The discrimination between nations in and those not in Treaty. The arguments against what appears a proportionate duty on molasses to that of rum turned on its disproportion to the value of the article; the effect on the trade in it, which yields the only market for certain exports from the Eastern States; the effect on the fisheries, in which both rum and molasses are consumed; and, finally, the effect on the poor in that part of the Union where the latter enters into their ordinary diet. The opposite arguments have been, that a proportion to the duty on rum was essential to the productiveness of the fund, as well as to the rules of justice as applied to different States, some of which consume foreign and some country rum; that if the proportion was not violated, the trade in molasses could not be affected nor the distilleries injured; that the effect on the fisheries would be too small to be felt; and that the poor who consume molasses would escape the burden falling on the poor who consume sugar. By the inclosed printed resolutions you will see the rates on these articles as they yet stand. It is not improbable that further efforts will be made to reduce that on molasses. Some of the other rates have been altered since they were printed. I do not note them because they are not yet in their final state. It will become a serious question whether a

general reduction of the rates shall be made or not, on the idea of the danger of smuggling. The distinction between nations in and not in Treaty has given birth to three distinct and urgent debates. On the last, the minority was very small for putting Great Britain at once on the same footing with the most favored nation. This policy, though patronized by some respectable names, is chiefly abetted by the spirit of this City, which is steeped in Anglicism. It is not improbable, from the urgency of its representative, that a further effort may be yet made.

Not knowing how far the present conveyance may be a certain one, I decline, on reflection, inclosing the Register until a more direct opportunity offers, when I will add sundry matters which I have not time now to put in cypher. Inclosed is the Speech of the President, with the Address of the House of Representatives, and his reply. You will see in the caption of the address that we have pruned the ordinary stile of the degrading appendages of Excellency, Esquire, &c., and restored it to its naked dignity. Titles to both the President and Vice President were formally and unanimously condemned by a vote of the House of Representatives. This, I hope, will shew to the friends of Republicanism that our new Government was not meant to substitute either Monarchy or Aristocracy, and that the genius of the people is as yet adverse to both.

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TO EDMUND RANDOLPH.

NEW YORK, May 10, 1789.

MY DEAR FRIEND,—Whilst I thank you for your favor of the 23d ultimo, I must remind you that it does not contain the promised information on the case of the French Consul here. I am led to it by being myself just reminded by him of the omission on my part.

The plan of an immediate temporary impost was what first occurred on the subject. It is not yet abandoned, but the practicability is questionable. The plan of 1783 was inadmissible

without alteration on some points, which have been most productive of delay. I allude particularly to the ratio between the duties on rum and molasses. When this plan was recommended by Congress, the States could restrain the substitution of N. England rum by taxing it, which being now prohibited, an indirect tax on it through the medium of molasses is become essential on the part of the National authority. The rates of impost are in their last stage, and will probably be soon determined. The plan of temporary collection, by a general adoption of the existing regulations of the States, is also before the House of Representatives. A uniform plan will in a day or two follow it from the Committee appointed to report the proper mode. The House will be able to make their election between the two. The reasons for despatch will recommend the first, if it can be made to hold water, which is much doubted. Whichever plan may be preferred, it will be proper, perhaps, to limit its duration, that a more correct provision within a reasonable time may be rendered a matter of necessity.

No question has been made in this quarter or elsewhere, as far as I have learned, whether the General ought to have accepted the trust. On the contrary, opinions have been unanimous and decided that it was essential to the commencement of the Government, and a duty from which no private considerations could absolve him. The promptitude of his setting out from Mount Vernon was the effect of information of the delay of business here, the impatience of the public mind, and the necessity of his presence to make the Government competent to its first and most urgent objects. His election was known to him with certainty a long time before the ballots were opened, and informally communicated, I believe, before it was regularly notified. It was taken for granted here, that, under the circumstances of the occasion, he would lose no time in repairing to his station, if he meant not to decline it altogether. Col. Griffin has, I presume, sent you his inaugural speech. Inclosed is the answer of the House of Representatives. The address is purged, you will observe, of all titles whatsoever except the Constitutional one.

This point had been previously determined by a Report from a joint committee originated by the Senate, for the purpose of settling what, or whether any, titles should be annexed to the President and Vice President. The Report was unanimously agreed to by the House of Representatives previous to the address. I am sorry to find that the Senate do not concur in this principle of dignified simplicity. They have disagreed to the Report of the joint Committee, and have proposed another consultation on the subject. The House of Representatives will assuredly adhere to the first determination. The friends of titles in the other Branch are headed by the vice president, who is seconded with all the force and urgency of natural temper by R. H. L.— I make no other remark on the case than that it is communicated to yourself *only*.

Ever most affec<sup>t</sup> yours,

My compliments to the President.\* I wish to write to him, but my friends must excuse me from much of the attention which my inclination would give them.

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TO JAMES MONROE.

NEW YORK, May 13, 1789.

DEAR SIR,—I have been favored with yours of April — . The newspapers will have given you some idea of our proceedings, though in a state always mutilated, and often perverted. The impost is still the subject of deliberation. The general quantum of duties has at some periods been a source of discussion; at others, the ratio of particular duties have produced still more of it. The proper one between Rum and Molasses has been the last and the longest question of that sort. I fear it will not be possible to establish a due and politic proportion without admitting excises, so far as to reach the distilleries. The

\* Of William and Mary.

dilemma between that expedient and a palpable inequality in the burden, and injury to the Treasury, is a perplexing one.

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TO EDMUND PENDLETON.

NEW YORK, May 17, 1789.

DEAR SIR,—Your favor of the 3d instant was not received till two days ago. It is not certain, however, that the post office is chargeable with the delay, the date of its receipt, stamped at Fredericksburg, being the 6th of the month.

The progress of our revenue system continues to be slow. The bill rating the duties is still with the Senate. It is said that many alterations will be proposed, consisting of reductions chiefly. It is said, also, that the proposition for putting Great Britain on the same footing with our Allies in all respects, prior to a treaty with her, will have a majority in that House, and will undergo another agitation in the House of Representatives. It had before three trials in the latter, but it lost ground in each, and finally was in a minority of 9 or 10 against near 40. I think it an impolitic idea as it relates to our foreign interest, and not less so, perhaps, as it relates to the popular sentiment of America, particularly of Virginia, and still more particularly of that part of it which is already most dissatisfied with the new Government.

I communicated your compliments to the President, who received them with professions of his great esteem and regard for you, and desired me to make the proper returns for them.

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TO THOMAS JEFFERSON.

NEW YORK, May 23, 1789.

DEAR SIR,— \* \* \* \* \*

My last inclosed copies of the President's inaugural Speech, and the answer of the House of Representatives. I now add the answer of the Senate. It will not have escaped you that

the former was addressed with a truly republican simplicity to George Washington, President of the United States. The latter follows the example, with the omission of the personal name, but without any other than the Constitutional title. The proceeding on this point was, in the House of Representatives, spontaneous. The imitation by the Senate was extorted. The question became a serious one between the two Houses. J. Adams espoused the cause of titles with great earnestness. His friend, R. H. Lee, although elected as a Republican enemy to an aristocratic Constitution, was a most zealous second. The projected title was, his Highness the President of the United States and protector of their liberties. Had the project succeeded, it would have subjected the President to a severe dilemma, and given a deep wound to our infant Government.

It is with much pleasure I inform you that Moustier begins to make himself acceptable; and with still more, that Madame Brehan begins to be viewed in the light which I hope she merits, and which was so little the case when I wrote by Master Morris.

The collection bill is not yet passed. The duties have been settled in the House of Representatives, and are before the Senate; they produced a good deal of discussion, and called forth, in some degree, our local feelings. But the experiment has been favorable to our character for moderation, and, in general, the temper of the Congress seems to be propitious.

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TO THOMAS JEFFERSON.

NEW YORK, May 27th, 1789.

DEAR SIR,—My former letters will have made known to you the obstacles to a licence for your visit to America. The new authority has not yet taken up your application. As soon as the auxiliary offices to the President shall be established and filled, which will probably not be long delayed, I hope the subject will be decided on, and in the manner you wish. It is already agreed in the form of resolutions that there shall be three

departments: one for finance, another for foreign affairs, and the third for war. The last will be continued in the hands of General Knox. The second will remain with Mr. Jay, if he chooses to keep it. The first is also to be under one head, though to be branched out in such a manner as will check the administration. Chancellor Livingston wishes this department, but will not succeed. It will be given, I think, to Jay or Hamilton. The latter is, perhaps, best qualified for that species of business, and on that account would be preferred by those who know him personally. The former is more known by character throughout the United States.

I have been asked whether any appointment at home would be agreeable to you. Being unacquainted with your mind, I have not ventured on an answer.

The Bill of rates, which passed the House of Representatives a few days ago, is not yet come down from the Senate. The duties will, it is said, be pretty much reduced. In a few instances, perhaps, the reductions may not be improper. If they are not generally left as high as will admit of collection, the dilemma will be unavoidable, of either maintaining our public credit in its birth, or resorting to other kinds of taxation for which our constituents are not yet prepared. The Senate is also abolishing the discriminations in favor of nations in Treaty, whereby Britain will be quieted in the enjoyment of our trade, as she may please to regulate it, and France discouraged from her efforts at a competition which it is not less our interest than hers to promote. The question was agitated repeatedly in the House of Representatives, and decided at last almost unanimously, in favor of some monitory proof that our Government is able and not afraid to encounter the restrictions of Britain. Both the Senators from Virginia, particularly Lee, go with the majority of the Senate. In this, I suspect the temper of the party which sent them is as little consulted as in the conduct of Lee in the affair of titles, and his opinion in relation to the western country.

I have already informed you that Madam Brehan is every day recovering from the disesteem and neglect into which re-



ports had thrown her, and that Moustier is also become more and more acceptable, or at least less and less otherwise. His commercial ideas are probably neither illiberal nor unfriendly to this country. The contrary has been supposed. When the truth is ascertained and known, unfavorable impressions will be still more removed.

The subject of amendments was to have been introduced on monday last, but is postponed in order that more urgent business may not be delayed. On monday seven-night it will certainly come forward. A Bill of rights, incorporated, perhaps, into the Constitution, will be proposed, with a few alterations most called for by the opponents of the Government and least objectionable to its friends.

As soon as Mr. Brown arrives, who is the Representative of Kentucky, the admission of that district to the character of a State, and a member of the Union, will claim attention. I foresee no difficulty, unless local jealousy should couple the pretensions of Vermont with those of Kentucky; and even then no other delay than what may be necessary to open the way for the former, through the forms and perhaps the objections of this State, N. York, which must not be altogether disregarded.

The proceedings of the new Congress are, so far, marked with great moderation and liberality, and will disappoint the wishes and predictions of many who have opposed the Government. The spirit which characterizes the House of Representatives, in particular, is already extinguishing the honest fears which considered the system as dangerous to Republicanism. For myself, I am persuaded that the bias of the federal is on the same side with that of the State Governments, though in a much less degree.

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TO EDMUND RANDOLPH.

NEW YORK, May 31, 1789.

MY DEAR FRIEND,—I have been favored with yours of the 19th instant, and thank you for the answer to Mr. S<sup>t</sup> John's

enquiries. The apprehensions of Mrs. Randolph give me unfeigned concern, but I indulge strong hopes that they proceed from an imaginary cause. There are so many symptoms which mimic the cancerous that it would be wrong to suffer appearances to prevail against the favorable chances. At the same time, it is impossible to disapprove of the forecast with which the occasion inspires you.

Our business here goes on very slowly, though in a spirit of moderation and accommodation which is so far flattering. The bill for regulating the quantum of duties is not yet come back from the Senate. Some alterations will be made, but none that affect the substance of the plan, unless it be the abolition of a small favor to the Nations in alliance with us, copied from the laws of Virginia. One of our Senators, whose ideas on another point excite animadversions among his constituents, seems not to consult their sentiments on this. I think myself that it is impolitic, in every view that can be taken of the subject, to put Great Britain at once on the footing of a most favored nation. The bill for collecting the duties is now before the House of Representatives, and I fear will not be very quickly despatched. It has passed through several hands, legal as well as Mercantile, and, notwithstanding, is in a crude state. It might certainly have been put into a better; though in every step the difficulties arising from novelty are severely experienced, and are an ample as well as just source of apology. Scarcely a day passes without some striking evidence of the delays and perplexities springing merely from the want of precedents. Time will be a full remedy for this evil, and will, I am persuaded, evince a greater facility in legislating uniformly for all the States than has been supposed by some of the best friends of the Union.

Among the subjects on the auvil is the arrangement of the subordinate Executive departments. A unity in each has been resolved on, and an amenability to the President alone, as well as to the Senate by way of impeachment. Perhaps it would not be very consistent with the Constitution to require the concurrence of the Senate in removals. The Executive power seems

to be vested in the President alone, except so far as it is qualified by an express association of the Senate in appointments; in like manner as the Legislative is vested in Congress, under the exception in favour of the President's qualified negative. Independently of this consideration, I think it best to give the Senate as little agency as possible in Executive matters, and to make the President as responsible as possible in them. Were the heads of departments dependent on the Senate, a faction in this branch might support them against the President, distract the Executive department, and obstruct the public business. The danger of undue power in the President from such a regulation is not to me formidable. I see and *politically feel* that that will be the weak branch of the Government. With a full power of removal, the President will be more likely to spare unworthy officers through fear than to displace the meritorious through caprice or passion. A disgusted man of influence would immediately form a party against the administration, endanger his re-election, and at least go into one of the Houses and torment him with opposition.

I cannot close this without a disagreeable recollection of the date of my last. I am most negligent towards my best friends perhaps, because I have most confidence in their forgiveness. I will at least, in future, inclose the newspapers, when I can do no more. I never had less time that I could truly call my own than at present, of which I hope you will consider my irregular correspondence as the fullest proof.

Very truly and most affect<sup>ly</sup>.

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TO THOMAS JEFFERSON.

(*Extract.*)

N. YORK, June 13, 1789.

DEAR SIR,— \* \* \* \* \*

The newspapers inclosed will shew you the form and extent of the amendments which I thought it advisable to introduce to the House of Representatives, as most likely to pass through

two-thirds of that House and of the Senate, and three-fourths of the States. If I am not mistaken, they will, if passed, be satisfactory to a majority of those who have opposed the Constitution. I am persuaded they will be so to a majority of that description in Virginia.

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TO EDMUND RANDOLPH.

NEW YORK, June 17, 1789.

MY DEAR FRIEND,—The inclosed bill relating to the Judiciary has been just introduced into the Senate. Having not yet looked it over, I can say nothing of its merits. You will be a better judge, and such remarks as your leisure will permit will be acceptable and useful.

A very interesting Question is started—By whom officers appointed during pleasure by the President and Senate are to be displaced? Whether the power results to the authority appointing, or, as an Executive function, to the President, who is vested with the Executive power, except so far as it is expressly qualified? *My present opinion is, that the Senate is associated with the President by way of exception, and cannot, therefore, claim beyond the exception.* This construction has its inconveniences, particularly in referring too much to a single discretion; but it is checked by the elective character of the Executive, his being impeachable at all times, and the subordinate officers being also impeachable. His power under this construction will be merely in a capacity to remove *worthy* officers; but experience shews that this is not the prevailing evil, the continuance of the unworthy being the most so. Add to this that his caprice would be restrained by the necessity of the Senate's concurrence in supplying the vacancy; and that injured merit would be supported by the public opinion, would attack with probability of success the re-election of the President, and would at least be able to make a party against him in the Legislature, and go into one or other of its branches to plague his administration. High as the existing President stands, I question whether it would be very safe for him even not to reinstate Jay

or Knox, &c. On the contrary construction the Senate must sit constantly; officers would make parties there to support them against the President, and, by degrees, the Executive power would slide into one branch of the Legislature; on the most favorable supposition it would be a two-headed monster.

Excuse the scrawl, which a moment only has permitted, the hour of the mail being come.

Most truly.

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TO EDMUND PENDLETON.

NEW YORK, June 21, 1789.

DEAR SIR,—The last favor for which I am to thank you is of June 9th. For some time past I have been obliged to content myself with inclosing you the newspapers. In general, they give, though frequently erroneous and sometimes perverted, yet, on the whole, fuller accounts of what is going forward than could be put into a letter. The papers now covered contain a sketch of a very interesting discussion which consumed great part of the past week. The Constitution has omitted to declare expressly by what authority removals from office are to be made. Out of this silence, four constructive doctrines have arisen: 1. That the power of removal may be disposed of by the Legislative discretion. To this it is objected that the Legislature might then confer it on themselves, or even on the House of Representatives, which could not possibly have been intended by the Constitution. 2. That the power of removal can only be exercised in the mode of impeachment. To this the objection is that it would make officers of every description hold their places during good behaviour, which could have still less been intended. 3. That the power of removal is incident to the power of appointment. To this the objections are that it would require the constant session of the Senate; that it extends the mixture of Legislative and Executive power; that it destroys the responsibility of the President, by enabling a subordinate

Executive officer to intrench himself behind a party in the Senate, and destroys the utility of the Senate in their Legislative and Judicial characters, by involving them too much in the heats and cabals inseparable from questions of a personal nature; in fine, that it transfers the trust in fact from the President, who, being at all times impeachable, as well as every fourth year eligible by the people at large, may be deemed the most responsible member of the Government, to the Senate; which, from the nature of that institution, is and was meant, after the Judiciary, and in some respects without that exception, to be the most irresponsible branch of the Government. 4. That the Executive power being in general terms vested in the President, all power of an Executive nature not particularly taken away must belong to that department; that the power of appointment only being expressly taken away, the power of removal, so far as it is of an Executive nature, must be reserved. In support of this construction it is urged that exceptions to general positions are to be taken strictly, and that the axiom relating to the separation of the Legislative and Executive functions ought to be favored. To this are objected the principle on which the 3<sup>d</sup> construction is founded, and the danger of creating too much influence in the Executive Magistrate.

The last opinion has prevailed, but is subject to various modifications, by the power of the Legislature to limit the duration of laws creating offices, or the duration of the appointments for filling them, and by the power over the salaries and appropriations. In truth, the Legislative power is of such a nature that it scarcely can be restrained, either by the Constitution or by itself; and if the federal Government should lose its proper equilibrium within itself, I am persuaded that the effect will proceed from the encroachments of the Legislative department. If the possibility of encroachments on the part of the Executive or the Senate were to be compared, I should pronounce the danger to lie rather in the latter than the former. The mixture of Legislative, Executive, and Judiciary authorities, lodged in that body, justifies such an inference; at the same time, I am fully in the opinion that the numerous and immediate repre-

sentatives of the people composing the other House will decidedly predominate in the Government.

Mr. Page tells me he has forwarded to you a copy of the amendments lately submitted to the House of Representatives. They are restrained to points on which least difficulty was apprehended. Nothing of a controvertible nature ought to be hazarded by those who are sincere in wishing for the approbation of  $\frac{2}{3}$  of each House, and  $\frac{3}{4}$  of the State Legislatures.

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TO EDMUND RANDOLPH.

NEW YORK, June 24, 1789.

MY DEAR FRIEND,—My last stated a question relating to the power of removal from offices then on the anvil of the House of Representatives. I now inclose the discussions, as conveyed to the public thro' the newspapers. It is not necessary to apprise you that the reasonings on both sides are mutilated, often misapprehended, and not unfrequently reversed. You will perceive yourself that much of the reasoning is also founded on a misconception of the ideas of the adverse side.

Mr. Jefferson has at length obtained formal leave to visit his own country. Mr. Short is to be charged with the affairs of the United States in his absence.

The President has been ill, but is now in a safe way. His fever terminated in an abscess, which was itself alarming, but has been opened with success, and the alarm is now over. His death, at the present moment, would have brought on another crisis in our affairs.

Yrs most truly,

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TO THOMAS JEFFERSON.

NEW YORK, June 30, 1789.

DEAR SIR,—By this conveyance you will receive permission, through Mr. Jay, to make your proposed visit to America. I

fear it will not reach you in time for your arrival here before the commencement of the windy season; yet I hope the delay will not oblige you to postpone your voyage till the Spring.

The federal business has proceeded with a mortifying tardiness, chargeable in part on the incorrect draughts of committees, and the prolixity of discussion incident to a public body, every member of which almost takes a positive agency, but principally resulting from the novelty and complexity of the subjects of Legislation. We are in a wilderness, without a single foot-step to guide us. Our successors will have an easier task, and by degrees the way will become smooth, short, and certain.

My last informed you of some of the difficulties attending a regulation of the duties. The bill on that subject has at length received the fiat of both Houses, and will be forthwith made a law by the concurrence of the President. The rates are not precisely on the scale first settled by the House of Representatives. The most material change is in the articles of rum and molasses. The necessity of preserving a certain ratio between them is obvious. The ratio sent to the Senate was that of 12 cents on the former, and 5 do. on the latter. The Senate returned them in the ratio of 8 and  $2\frac{1}{2}$ , which has, after a conference, prevailed.

The Senate has prevailed on another point in the bill, which had undergone more discussion, and produced more difficulty. It had been proposed by the House of Representatives that, besides a discrimination in the tonnage, a small reduction should be made in the duty on distilled spirits imported from countries in Treaty with the United States. The Senate were opposed to any discrimination whatsoever, contending that even Great Britain should stand on the same footing with the most favored nations. The arguments on that side of the question were that the United States were not bound by treaty to give any commercial preferences to particular nations; that they were not bound by gratitude, since our allies had been actuated by their own interest, and had obtained their compensation in the dismemberment of a rival empire; that in national, and particularly in commercial measures, gratitude was, moreover, no proper



motive, interest alone being the Statesman's guide; that Great Britain made no discrimination against the United States compared with other nations, but, on the contrary, distinguished them by a number of advantages; that if Great Britain possessed almost the whole of our trade, it proceeded from causes which proved that she could carry it on for us on better terms than the other nations of Europe; that we were too dependent on her trade to risk her displeasure by irritating measures, which might induce her to put us on a worse footing than at present; that a small discrimination could only irritate, without operating on her interests or fears; that if anything were done it would be best to make a bolder stroke at once, and that, in fact, the Senate had appointed a committee to consider the subject in that point of view. On the other side, it was contended that it would be absurd to *give* away everything that could *purchase* the stipulations wanted by us; that the motives in which the new Government originated, the known sentiments of the people at large, and the laws of most of the States subsequent to the peace, shewed clearly that a distinction between nations in Treaty and nations not in Treaty would coincide with the public opinion, and that it would be offensive to a great number of citizens to see Great Britain, in particular, put on the footing of the most favored nations, by the first act of a Government instituted for the purpose of uniting the States in the vindication of their commercial interests against her monopolizing regulations; that this respect to the sentiments of the people was the more necessary in the present critical state of the Government; that our trade at present entirely contradicted the advantages expected from the Revolution, no new channels being opened with other European nations, and the British channels being removed by a refusal of the most natural and valuable one to the United States;\* that this evil proceeded from the deep hold the British monopoly had taken of our country, and the difficulty experienced by France, Holland, &c., in entering into competition with her; that in order

\* With the West Indies.

to break this monopoly, those nations ought to be aided till they could contend on equal terms; that the market of France was particularly desirable to us; that her disposition to open it would depend on the disposition manifested on our part, &c., &c.; that our trade would not be in its proper channels until it should flow *directly* to the countries making the exchange, in which case, too, American vessels would have a due share in the transaction, whereas at present the whole carriage of our bulky produce is confined to British Bottoms; that with respect to Great Britain, we had good reason to suppose that her conduct would be regulated by the apparent temper of the new Government; that a passiveness under her restrictions would confirm her in them, whilst an evidence of intention as well as ability to face them would ensure a reconsideration of her policy; that it would be sufficient to begin with a moderate discrimination, exhibiting a readiness to invigorate our measures as circumstances might require; that we had no reason to apprehend a disposition in Great Britain to resort to a commercial contest, or the consequences of such an experiment, her dependence on us being greater than ours on her. The supplies of the United States are necessary to the existence, and their market to the value, of her islands. The returns are either superfluities or poisons. In time of famine, the cry of which is heard every three or four years, the bread of the United States is essential. In time of war, which is generally decided in the West Indies, friendly offices, not violating the duties of neutrality, might effectually turn the scale in favor of an adversary. In the direct trade with Great Britain, the consequences ought to be equally dreaded by her. The raw and bulky exports of the United States employ her shipping, contribute to her revenue, enter into her manufactures, and enrich her merchants, who stand between the United States and the consuming nations of Europe. A suspension of the intercourse would suspend all these advantages, force the trade into rival channels from which it might not return, and besides a temporary loss of a market for  $\frac{1}{4}$  of her exports, hasten the establishment of manufactures here, which would so far cut off the market forever. On the

other side, the United States would suffer but little. The manufactures of Great Britain, as far as desirable, would find their way through other channels, and if the price were a little augmented it would only diminish an excessive consumption. They could do almost wholly without such supplies, and better without than with many of them. In one important view the contest would be particularly in their favor. The articles of luxury, a privation of which would be salutary to them, being the work of the indigent, may be regarded as necessities to the manufacturing party: that it was probable nothing would be done at this session, if at all, in the way projected in the Senate; and in case a discord of opinion as to the mode, the degree, and the time of our regulations should become apparent, an argument would be drawn from it in favor of the very policy hitherto pursued by Great Britain. The event of the tonnage bill, in which the discrimination was meant to be most insisted on by the House of Representatives, is not yet finally decided. But here, also, the Senate will prevail. It was determined yesterday in that House to *adhere* to their amendment for striking out the clause, and there is no reason to suppose that the other House will let the Bill be lost. I mentioned in my last that both the Senators of Virginia were for admitting Britain to an equality with the most favored nation. This was a mistake as to Grayson.

The other bills depending relate to the collection of the Impost, and the establishment of a war, foreign, and Treasury Department. The bills on the two first of these departments have passed the House of Representatives, and are before the Senate. They gave birth to a very interesting constitutional question—by what authority removals from office were to be made. The Constitution being silent on the point, it was left to construction. Four opinions were advanced: 1. That no removal could be made but by way of impeachment. To this it was objected that it gave to every officer, down to tide waiters and tax gatherers, the tenure of good behaviour. 2. That it devolved on the Legislature, to be disposed of as might be proper. To this it was objected that the Legislature might then dispose

of it to be exercised by themselves, or even by the House of Representatives. 3. That it was incident to the power of appointment, and therefore belonged to the President and Senate. To this it was said that the Senate, being a *Legislative* body, could not be considered in an *Executive* light farther than was expressly declared; that such a construction would transfer the trust of seeing the laws duly executed from the President, the most responsible, to the Senate, the least responsible branch of the Government; that officers would intrench themselves behind a party in the Senate, bid defiance to the President, and introduce anarchy and discord into the Executive Department; that the Senate were to be Judges in case of impeachment, and ought not, therefore, to be previously called on for a summary opinion on questions of removal; that in their Legislative character they ought to be kept as cool and unbiased as possible, as the constitutional check on the passions and parties of the other House, and should, for that reason also, be as little concerned as possible in those *personal* matters, which are the great source of factious animosities. 4. That the Executive power being generally vested in the President, and the Executive function of removal not expressly taken away, it remained with the President. To this was objected the rule of construction on which the third opinion rested, and the danger of creating too much weight in the Executive scale. After very long debates, the 4<sup>th</sup> opinion prevailed, as most consonant to the text of the Constitution, to the policy of mixing the Legislative and Executive Departments as little as possible, and to the requisite responsibility and harmony in the Executive Department. What the decision of the Senate will be cannot yet be even conjectured. As soon as the bills are passed, Mr. Jay and General Knox will of course have their commissions renewed.

The bill relating to the Treasury Department is still before the House of Representatives. The Board will be discontinued, but the business will be so arranged as to make the comptroller and other officers checks on the Head of the Department. It is not clear who this will be. The members of Congress are disqualified. Hamilton is most talked of.

The Senate have in hand a bill for the Judiciary Department. It is found a pretty arduous task, and will probably be long on its way through the two Houses.

Inclosed is a copy of sundry amendments to the Constitution lately proposed in the House of Representatives. Every thing of a controvertible nature that might endanger the concurrence of two-thirds of each House and three-fourths of the States was studiously avoided. This will account for the omission of several amendments which occur as proper. The subject will not be taken up till the revenue and Department bills are passed.

The President has been *ill*. His fever terminated in a large anthrax on the upper end of his thigh, which is likely to confine him for some time. Wishing you an expeditious and safe passage across the Atlantic, I am, my dear Sir, yours, &c.

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TO COL. JAMES MADISON.

NEW YORK, July 5th, 1789.

HON. SIR,—The last letter from my brother A. left me in much anxiety for the state of my mother's health. I have ventured to hope, from the silence which has followed, that she has been on the recovery. I wish much to hear oftener from the family than I do, and would set the example if other occupations, and particularly a very extensive correspondence, would permit.

The business goes on still very slowly. We are in a wilderness, without a single footstep to guide us. It is consequently necessary to explore the way with great labour and caution. Those who may follow will have an easier task. The Bills imposing duties on imports and tonnage have at length got through both Houses. The question whether a distinction should be made between Nations in Treaty and those not in Treaty was finally settled in the negative; so that Great Britain is, in fact, put on the same footing with the most favored nation, although she has shewn no disposition to treat with the United States, and will probably be confirmed by such a measure in the belief

that America, even if under a United Government, would be unable to unite her counsels on this subject. The discrimination was struck out of the Bills in consequence of the refusal of the Senate to agree to the bills on other terms. They urged, in a conference between Committees from the two Houses on the subject, that something more efficacious was necessary in order to counter-work the restrictions of Great Britain; and that they had accordingly appointed a committee for the purpose of devising such a plan. It is very doubtful, however, whether it will come to anything, and whether a more moderate mode of shewing a determination in the new government to vindicate our commercial interests would not have answered every purpose that can be answered at all. If anything should be done on the plan of the Senate, it will probably consist of regulations founded on the principle of the British navigation act, which will disable her vessels from bringing to this country any articles not the growth or manufacture of Great Britain, and embarrass her West Indies until the trade to them shall be opened to American as it is to British vessels. Bills for establishing the several Departments of war, finance, and foreign affairs, have passed the House of Representatives, and are before the Senate. The bills for collecting the Impost and regulating the coasting trade are still before the House of Representatives, but will be pushed through as fast as their length and importance will permit.

The subject of amendments to the Constitution will not be resumed till the revenue matters are over. I hope it will then be duly attended to, and will end in such a recommendation as will satisfy moderate opponents. This, however, is but opinion, nothing having passed from which any conclusion can be drawn with regard to the sentiments of the two Houses, particularly the Senate.

With the most dutiful regards, I am, your affectionate Son.

TO EDMUND PENDLETON.

NEW YORK, July 15, 1789.

DEAR SIR,—I am particularly obliged by your favor of the 3d, which incloses your remarks on the Judiciary bill. It came to hand yesterday only, and I have not had time to compare your suggestions with the plan of the Senate; nor do I know the alterations which may have taken place in it—since it has been under discussion. In many points, even supposing the outline a good one, which I have always viewed as controvertible, defects and inaccuracies were striking.

It gives me much pleasure to find your approbation given to the decision of the House of Representatives on the power of removal. This appears to be the case with several of our friends in Virginia, of whose sentiments I had formed other conjectures. I was apprehensive that the alarms with regard to the danger of Monarchy would have diverted their attention from the impropriety of transferring an Executive trust from the most to the least responsible member of the Government. Independently of every other consideration, the primary objects on which the Senate are to be employed seem to require that their executive agency should not be extended beyond the minimum that will suffice. As the Judiciary tribunal which is to decide on impeachments, they ought not to be called on previously for a summary opinion on cases which may come before them in another capacity; and both on that account, and the necessity of keeping them in a fit temper to controul the capricious and factious counsels of the other Legislative branch, they ought to be as little as possible involved in those questions of a personal nature, which, in all Governments, are the most frequent and violent causes of animosity and party.

You will find in one of the inclosed papers the act imposing duties, as it finally passed. The collection bill has passed the House of Representatives, and awaits the last hand of the Senate. It is very long, and has cost much trouble in adjusting the regulations to the various geographical and other circumstances of the States. It is in many respects inaccurate and

deficient, but may do to begin with. We have endeavored to make the part relating to Virginia a little more palatable than the late State laws. On Rappahannock, vessels are to *report* at Urbanna, *enter* at Hobbshole, and deliver at any of the ports, including Fredericksburg and Port Royal, and foreign as well as American vessels. The like on the other rivers.

To secure the opportunity by this mail, I must hasten my assurances that I am, dear sir, yours affectionately.

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TO EDMUND RANDOLPH.

NEW YORK, July 15, 1789.

MY DEAR FRIEND,—I have been favored with yours of the 30th ultimo, and thank you for your remarks on the Judiciary bill.

I am glad to find you concurring in the decision as to the power of removal. It seems to meet with general approbation North of Virginia, and there, too, as far as I yet learn. Mr. Pendleton is fully in opinion with you. So is Monroe, I am *told*. The more the question is weighed the more proper I think it will be found to reduce the ex-agency of the Senate to the very minimum that will satisfy the Constitution. To say nothing of their being the least responsible member of the Government, the nature of their other functions forbids an extension of their executive. As a judiciary body for impeachments, they ought not to be called on for a summary opinion in cases that may come judicially before them; and as a controul on the passions of the House of Representatives, they ought to have as little as possible to do with those personal questions, which are sources in all Governments of the most frequent and violent animosities and factions. The Senate have not yet declared themselves on the question. The event there is doubtful.

You will find among the enclosed papers the impost act, as it finally passed. The Collection Bill is gone to the Senate. It is very long, has cost a great deal of trouble, and is by no means



in a very correct state. It will do only to begin with. We endeavored to make the regulations for Virginia more palatable than the State laws, by relaxing the plan of the port Bills.

Adieu.

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TO JAMES MONROE.

NEW YORK, August 9, 1789.

DEAR SIR,—

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Your ideas on the proposed discrimination between foreign Nations coincide, I perceive, exactly with those which have governed me. The Senate did not allow that no effort should be made for vindicating our commercial interests, but argued that a more effectual mode should be substituted. A committee was appointed in that branch to report such a mode. The report made is founded on something like a retort of her restrictions in the West India channels. It is now said that as the measure would involve an imposition of extraordinary duties, the Senate cannot proceed in it. Mr. Gerry, alluding to these circumstances, moved two days ago for a bill giving further encouragement to trade and navigation, and obtained a committee for the purpose. What will be the result is uncertain. If the attempt, added to what has passed, should, as it probably will, be made known abroad, it may lead to apprehensions that may be salutary.

The attention of the House of Representatives for some days has been confined to the subject of compensations. The bill is at length brought into its final shape. Much discussion took place on the quantum for the members of Congress, and the question whether it should be the same\*for both Houses. My own opinion was in favor of a difference, founded on a reduction of the sum proposed with regard to the House of Representatives, and an augmentation as to the Senate. As no difference took place, the case of the Senate, and of the members from S. Carolina and Georgia, had real weight against a lesser sum

than 6 dollars, which I own is higher than I had contemplated for the House of Representatives, and which I fear may excite criticisms not to be desired at the present moment.

Yesterday was spent on a Message from the President relative to Indian affairs, and the Militia Bills are ordered, providing for a Treaty with the hostile Tribes, and for regulating the Militia. The latter is an arduous task, and will probably not be compleated at this Session.

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TO EDMUND RANDOLPH.

NEW YORK, August 21, 1789.

MY DEAR FRIEND,—For a week past the subject of amendments has exclusively occupied the House of Representatives. Its progress has been exceedingly wearisome, not only on account of the diversity of opinions that was to be apprehended, but of the apparent views of some to defeat, by delaying, a plan short of their wishes, but likely to satisfy a great part of their companions in opposition throughout the Union. It has been absolutely necessary, in order to effect anything, to abbreviate debate, and exclude every proposition of a doubtful and unimportant nature. Had it been my wish to have comprehended every amendment recommended by Virginia, I should have acted from prudence the very part to which I have been led by choice. Two or three contentious additions would even now prostrate the whole project.

The Judiciary bill was put off in favor of the preceding subject. It was evident that a longer delay of that would prevent any decision on it at this Session. A push was therefore made, which did not succeed without strenuous opposition. On Monday the bill will probably be taken up, and be pursued to a final question as fast as the nature of the case will allow.

I find, on looking over the notes of your introductory discourse in the Convention at Philadelphia, that it is not possible for me to do justice to the substance of it. I am anxious, for particular reasons, to be furnished with the means of preserving

this as well as the other arguments in that body, and must beg that you will make out and forward me the scope of your reasoning. You have your notes, I know, and from these you can easily deduce the argument on a condensed plan. I make this request with an earnestness which will not permit you either to refuse or delay a compliance.

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TO EDMUND PENDLETON.

NEW YORK, Sept<sup>r</sup> 14. 1789.

DEAR SIR,—I was favored on Saturday with yours of the 2d instant. The Judiciary is now under consideration. I view it as you do, as defective both in its general structure, and many of its particular regulations. The attachment of the Eastern members, the difficulty of substituting another plan with the consent of those who agree in disliking the bill, the defect of time, &c., will, however, prevent any radical alterations. The most I hope is that some offensive violations of Southern jurisprudence may be corrected, and that the system may speedily undergo a reconsideration under the auspices of the Judges, who alone will be able, perhaps, to set it to rights.

The Senate have sent back the plan of amendments with some alterations, which strike, in my opinion, at the most salutary articles. In many of the States, juries, even in criminal cases, are taken from the State at large; in others, from districts of considerable extent; in very few from the County alone. Hence a dislike to the restraint with respect to *vicinage*, which has produced a negative on that clause. A fear of inconvenience from a Constitutional bar to appeals below a certain value, and a confidence that such a limitation is not *necessary*, have had the same effect on the article. Several others have had a similar fate. The difficulty of uniting the minds of men accustomed to think and act differently can only be conceived by those who have witnessed it.

A very important question is depending on the subject of a permanent seat for the federal Government. Early in the Ses-

sion secret negotiations were set on foot among the Northern States, from Pennsylvania, inclusively. The parties finally disagreeing in their arrangements, both made advances to the Southern members. On the side of New York and New England, we were led to expect the Susquehannah within a reasonable time if we would sit still in New York, otherwise we were threatened with Trenton. These terms were inadmissible to the friends of Potowmac. On the side of Pennsylvania, who was full of distrust and animosity against New England and New York, the Potowmac was presented as the reward for the temporary advantages if given by the Southern States. Some progress was made on this ground, and the prospect became flattering, when a reunion was produced among the original parties by circumstances which it would be tedious to explain. The Susquehannah has in consequence been voted. The bill is not yet brought in, and many things may yet happen. We shall parry any decision if we can, though I see little hope of attaining our own object, the Eastern States being inflexibly opposed to the Potowmac, and for some reasons which are more likely to grow stronger than weaker; and if we are to be placed on the Susquehannah, the sooner the better.

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TO EDMUND PENDLETON.

NEW YORK, Sept<sup>r</sup> 23d, 1789.

DEAR SIR,—The pressure of unfinished business has suspended the adjournment of Congress till saturday next. Among the articles which required it was the plan of amendments, on which the two Houses so far disagreed as to require conferences. It will be impossible, I find, to prevail on the Senate to concur in the limitation on the *value* of appeals to the Supreme Court, which they say is unnecessary, and might be embarrassing in questions of national or Constitutional importance in their principle, though of small pecuniary amount. They are equally inflexible in opposing a definition of the *locality* of Juries. The vicinage they contend is either too vague or too strict a term;

too vague if depending on limits to be fixed by the pleasure of the law, too strict if limited to the county. It was proposed to insert after the word Juries, "with the accustomed requisites," leaving the definition to be construed according to the judgment of professional men. Even this could not be obtained. The truth is, that in most of the States the practice is different, and hence the irreconcilable difference of ideas on the subject. In some States, jurors are drawn from the whole body of the community, indiscriminately; in others, from large districts comprehending a number of Counties; and in a few only from a single County. The Senate suppose, also, that the provision for vicinage in the Judiciary bill will sufficiently quiet the fears which called for an amendment on this point. On a few other points in the plan the Senate refuse to join the House of Representatives.

The bill establishing the permanent seat of Government has passed the House of Representatives in favour of the Susquehannah. Some of the Southern members despaired so much of ever getting anything better, that they fell into the majority. Even some of the Virginians leaned that way. My own judgment was opposed to any compromise, on the supposition that we had nothing worse to fear than the Susquehannah, and could obtain that at any time, either by uniting with the Eastern States or Pennsylvania. The bill, however, is by no means sure of passing the Senate in its present form. It is even possible that it may fall altogether. Those who wish to do nothing at this time, added to those who disapprove of the Susquehannah, either as too far South or too far North, or not susceptible of early conveniences for the fiscal administration, may form a majority who will directly or indirectly frustrate the measure. In case of an indirect mode, some other place will be substituted for Susquehannah, as Trenton or Germantown, neither of which can, I conceive, be effectually established, and either of which might get a majority composed of sincere and insidious votes.

The inclosed papers contain very interesting accounts from France. I have a letter from Mr. Jefferson of July 22 and 23, confirming the substance of them. The King has thrown him-

self finally on his people, recalled Neckar, dismissed the troops, and, in short, given a Carte Blanche to the National Assembly, who are at work in forming a regular Constitution. The tumults in Paris have been dreadful, but at the same time mixed with a steady attention to the main object. The City has formed a Militia and put Fayette at the head, and committees of safety according to the American model.

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TO GEORGE WASHINGTON.

ORANGE, Nov<sup>r</sup> 20, 1789.

DEAR SIR,—It was my purpose to have dropped you a few lines from Philad<sup>a</sup>, but I was too much indisposed during my detention there to avail myself of that pleasure. Since my arrival here, I have till now been without a fit conveyance to the Post office.

You will recollect the contents of a letter shewn you from Mr. Innes to Mr. Brown. Whilst I was in Philadelphia I was informed by the latter, who was detained there by indisposition, as well as myself, that he had received later accounts, tho' not from the same correspondent, that the Spaniards have finally put an entire stop to the trade of our citizens down the river. The encouragements to such as settle under their own Government are continued.

A day or two after I got to Philadelphia I fell in with Mr. Morris. He broke the subject of the residence of Congress, and made observations which betrayed his dislike of the upshot of the business at N. York, and his desire to keep alive the Southern project of an arrangement with Pennsylvania. I reminded him of the conduct of his State, and intimated that the question would probably sleep for some time in consequence of it. His answer implied that Congress must not continue at N. York, and that if he should be freed from his engagements with the Eastern States, by their refusal to take up the bill and pass it as it went to the Senate, he should renounce all confidence in that quarter, and speak seriously to the Southern States. I

told him they must be spoken to very seriously after what had passed, if Pennsylv<sup>a</sup> expected them to listen to her; that, indeed, there was probably an end to further intercourse on the subject. He signified that, if he should speak, it would be in earnest, and he believed that no one would pretend that his conduct would justify the least distrust of his going through with his undertakings; adding, however, that he was determined, and accordingly gave me, as he had given others, notice that he should call up the postponed Bill as soon as Congress should be reassembled. I observed to him that if it were desirable to have the matter revived, we could not wish to have it in a form more likely to defeat itself. It was unparliamentary, and highly inconvenient; and would therefore be opposed by all candid friends to his object as an improper precedent, as well as by those who were opposed to the object itself. And if he should succeed in the Senate, the irregularity of the proceeding would justify the other House in withholding the signature of its Speaker, so that the Bill could never go up to the President. He acknowledged that the Bill could not be got through unless it had a majority of both Houses on its merits. Why, then, I asked, not take it up anew? He said he meant to bring the gentlemen who had postponed the Bill to the point, acknowledged that he distrusted them, but held his engagements binding on him until this final experiment should be made on the respect they meant to pay to theirs. I do not think it difficult to augur from this conversation the views which will govern Pennsylv<sup>a</sup> at the next Session. Conversations held by Grayson, both with Morris and others, in Philadel<sup>a</sup>, and left by him in a letter to me, coincide with what I have stated. An attempt will first be made to alarm N. York and the Eastern States into the plan postponed, by holding out the Potowmac and Philad<sup>a</sup> as the alternative; and if the attempt should not succeed, the alternative will then be held out to the Southern members. On the other hand, N. York and the Eastern States will enforce the policy of delay by threatening the Southern States, as heretofore, with Germantown or Trenton, or at least Susquehannah, and will no doubt carry the threat into execution if they can, rather

than suffer an arrangement to take place between Pennsylv<sup>a</sup> and the Southern States.

I hear nothing certain from the Assembly. It is said that an attempt of Mr. H——y to revive the project of commutables has been defeated; that the amendments (to the federal Constitution) have been taken up and are likely to be put off to the next Session, the present House having been elected prior to the promulgation of them. This reason would have more force if the amendments did not so much correspond, as far as they go, with the propositions of the State Convention, which were before the public long before the last election. At any rate, the Assembly might pass a vote of *approbation*, along with the postponement, and assign the reason for referring the *ratification* to their successors. It is probable that the scruple has arisen with the disaffected party. If it be construed by the public into a latent hope of some contingent opportunity for promoting the war against the Gen<sup>l</sup> Government, I am of opinion the experiment will recoil on the authors. As far as I can gather, the great bulk of the late opponents are entirely at rest, and more likely to censure a further opposition to the Government, as now administered, than the Government itself. One of the principal leaders of the Baptists lately sent me word that the amendments had entirely satisfied the disaffected of his sect, and that it would appear in their subsequent conduct.

I ought not to conclude without some apology for so slovenly a letter. I put off writing it till an opportunity should present itself, not knowing but something from time to time might turn up that would make it less unworthy of your perusal. And it has so happened that the opportunity barely gives me time for this hasty scrawl.

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TO GEORGE WASHINGTON.

ORANGE, Dec<sup>r</sup> 5, 1789.

DEAR SIR,—Since my last I have been furnished with the inclosed copy of the letter from the Senators of this State to



its Legislature. It is well calculated to keep alive the disaffection to the Government, and is accordingly applied to that use by violent partizans. I understand the letter was written by the first\* subscriber of it, as, indeed, is pretty evident from the style and strain of it. The other,† *it is said*, subscribed it with reluctance. I am less surprised that this should have been the case than that he should have subscribed it at all.

My last information from Richmond is contained in the following extract from a letter of the 28th of November, from an intelligent member of the House of Delegates: "The revenue Bill, which proposes a reduction of the public taxes one-fourth below the last year's amount, is with the Senate. Whilst this business was before the House of Delegates a proposition was made to receive Tobacco and Hemp as commutables, which was negatived, the House determining still to confine the collection to specie and to specie warrants. Two or three petitions have been presented which asked a general suspension of executions for twelve months; they were read, but denied a reference. The Assembly have passed an Act for altering the time for choosing Representatives to Congress, which is now fixed to be on the third Monday in September, suspending the powers of the Representative until the February after his election. This change was made to suit the time of the annual meeting of Congress. The fate of the amendments proposed by Congress to the Gen<sup>l</sup> Government is still in suspense. In a committee of the whole House, the first ten were acceded to with little opposition; for on a question taken on each separately, there was scarcely a dissenting voice. On the two last a debate of some length took place, which ended in rejection. Mr. Edmund Randolph, who advocated all the others, stood on this contest in the front of opposition. His principal objection was pointed against the word '*retained*,' in the eleventh proposed amendment, and his argument, if I understood it, was applied in this manner: that as the rights declared in the first ten of the proposed amendments were not all that a free people would require

\* R. H. Lee.

† Col. Grayson.

the exercise of, and that as there was no criterion by which it could be determined whether any other particular right was retained or not, it would be more safe, and more consistent with the spirit of the 1st and 17th amendments proposed by Virginia, that this reservation against constructive power should operate rather as a provision against extending the powers of Congress by their own authority, than a protection to rights reducible to no definite certainty. But others, among whom I am one, see not the force of this distinction; for by preventing an extension of power in that Body, from which danger is apprehended, safety will be insured, if its powers be not too extensive already; and so, by protecting the rights of the people and of the States, an improper extension of power will be prevented, and safety made equally certain. If the House should agree to the Resolution for rejecting the two last, I am of opinion it will bring the whole into hazard again; as some who have been decided friends to the ten first think it would be unwise to adopt them without the 11 and 12th. Whatever may be the fate of the amendments submitted by Congress, it is probable that an application for further amendments will be made by this Assembly; for the opposition to the Federal Constitution is, in my opinion, reduced to a single point—the power of direct taxation. Those who wish the change are desirous of repeating the application, while those who wish it not are indifferent on the subject, supposing that Congress will not propose a change which would take from them a power so necessary for the accomplishment of those objects which are confided to their care. Mess<sup>rs</sup> Joseph Jones and Spencer Roane are appointed Judges of the General Court, to fill the vacancies occasioned by the death of Mr. Carey, and the removal of Mr. Mercer to the Court of Appeals.”

The difficulty started against the amendments is really unlucky, and the more to be regretted as it springs from a friend to the Constitution. It is a still greater cause of regret, if the distinction be, as it appears to me, altogether fanciful. If a line can be drawn between the powers granted and the rights retained, it would seem to be the same thing whether the latter

be secured by declaring that they shall not be abridged, or that the former shall not be extended. If no such line can be drawn, a declaration in either form would amount to nothing. If the distinction were just, it does not seem to be of sufficient importance to justify the risk of losing the amendments, of furnishing a handle to the disaffected, and of arming N. Carolina with a pretext, if she be disposed to prolong her exile from the Union.

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[*Copy of a letter from Senators R. H. Lee and William Grayson to the Legis<sup>e</sup> of Virg<sup>a</sup>.*]

NEW YORK, Sept<sup>r</sup> 28, 1789.

SIR,—We have now the honor of inclosing the proposition of amendments to the Constitution of the United States that has been finally agreed upon by Congress. We can assure you, Sir, that nothing on our part has been omitted to procure the success of those radical amendments proposed by the Convention and approved by the Legislature of our country, which, as our Constituent, we shall always deem our duty with respect and reverence to obey. The journal of the Senate, herewith transmitted, will at once show how exact and how unfortunate we have been in this business. It is impossible for us not to see the necessary tendency to consolidated empire in the natural operation of the Constitution, if no further amended than now proposed. And it is equally impossible for us not to be apprehensive for Civil Liberty, when we know no instance in the records of History that shew a people ruled in freedom when subject to an undivided Government, and inhabiting a Territory so extensive as that of the United States, and when, as it seems to us, the nature of men and things join to prevent it. The impracticability, in such case, of carrying representation sufficiently near to the people for procuring their confidence, and consequent obedience, compels a resort to fear, resulting from great force and excessive power in Government. Confederate Republics, when the federal hand is not possessed of absorbing power, may permit the existence of freedom, whilst it preserves

union, strength, and safety. Such amendments, therefore, as may secure against the annihilation of the State Governments, we devoutly wish to see adopted.

If a persevering application to Congress from the States that have desired such amendments should fail of its objects, we are disposed to think, reasoning from causes to effects, that unless a dangerous apathy should invade the public mind, it will not be many years before a Constitutional number of Legislatures will be found to demand a Convention for the purpose. We have sent a complete set of the Journals of each House of Congress, and thro' the appointed Channel will be the Acts that have passed this Session. In these will be seen the extent and nature of the Judiciary, the estimated expenses of the Government, and the means so far adopted of defraying the latter.

We beg, Sir, to be presented with all duty to the House of Representatives, and to assure you that we are, with every sentiment of respect and esteem, Sir, your most obedient and very humble servants,

RICHARD HENRY LEE,  
WILLIAM GRAYSON.

The complete set of Journals is ordered to be sent to each State by the respective Clerks, with the laws. They are not now ready.

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TO GEORGE WASHINGTON.

GEORGETOWN, Jan<sup>y</sup> 4, 1790.

DEAR SIR,—After being detained 8 or ten days beyond the intended commencement of my journey by the critical illness of my mother, I am now subjected to a further delay by an attack on my own health, \* \* \* and shall be under the necessity not only of remaining here a few days longer, but of travelling afterwards with some circumspection.

You will probably have seen by the papers that the contest in the Assembly on the subject of the amendments ended in the

loss of them. The House of Delegates got over the objections to the 11th and 12th, but the Senate revised them with an addition of the 3d and 8th Articles, and by a vote of adherence prevented a ratification. On some accounts this event is no doubt to be regretted, but it will do no injury to the Gen<sup>l</sup> Gov<sup>t</sup>. On the contrary, it will have the effect with many of turning their distrust towards their own Legislature. The miscarriage of the 3d Article, particularly, will have this effect.

A few days before I was allowed to set out for New York, I took a ride to Monticello. The answer of Mr. Jefferson to the notification of his appointment will no doubt have explained the state of his mind on that subject. I was sorry to find him so little biassed in favor of the domestic service allotted to him, but was glad that his difficulties seemed to result chiefly from what I take to be an erroneous view of the kind and quantity of business annexed to that which constitutes the foreign Department. He apprehends that it will far exceed the latter, which has, of itself, no terrors to him. On the other, it was supposed, and I believe truly, that the Domestic part will be very trifling, and for that reason improper to be made a distinct Department. After all, if the whole business can be executed by any one man, Mr. Jefferson must be equal to it; if not, he will be relieved by a necessary division of it. All whom I have heard speak on the subject are remarkably solicitous for his acceptance, and I flatter myself that they will not, in the final event, be disappointed.

In case I should be detained here much longer than I calculate, and anything should occur, I may trouble you with a few lines further.

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TO THOMAS JEFFERSON.

NEW YORK, Jan<sup>y</sup> 24, 1790.

DEAR SIR,— \* \* \* \* \*

The business of Congress is as yet merely in embryo. The principal subjects before them are the plans of revenue and the

Militia, reported by Hamilton and Knox. That of the latter is not yet printed, and being long, is very imperfectly understood. The other has scarcely been long enough from the press to be looked over. It is too voluminous to be sent entire by the mail. I will by the next mail commence a transmission in fractions. Being in possession at present of a single copy only, I cannot avail myself of this opportunity for the purpose. You will find a sketch of the plan in one of the newspapers herewith inclosed. Nothing has passed, either in Congress or in conversation, from which a conjecture can be formed of the fate of the Report. Previous to its being made, the avidity for stock had raised it from a few shillings to eight or ten shillings in the pound, and emissaries are still exploring the interior and distant parts of the Union in order to take advantage of the ignorance of holders. Of late, the price is stationary at, or fluctuating between, the sums last mentioned. From this suspense it would seem as if doubts were entertained concerning the success of the plan in all its parts.

I take for granted that you will before the receipt of this have known the ultimate determination of the President on your appointment. All that I am able to say on the subject is, that a universal anxiety is expressed for your acceptance, and to repeat my declarations, that such an event will be more conducive to the general good, and perhaps to the very objects you have in view in Europe, than your return to your former station.

I do not find that any late information has been received with regard to the Revolution in France. It seems to be still unhappily forced to struggle with the adventitious evils of public scarcity, in addition to those naturally thrown in its way by antient prejudices and hostile interests. I have a letter from Havre of the 13th Nov<sup>r</sup>, which says that wheat was then selling at 10 livres per Bushel, and flour at 50 livres per 100 lbs., and the demand pressing for all kinds of materials for bread. The letter adds that a bounty of 2 livres per 100 lb. marc on wheat, and on flour in proportion, &c., &c., was to commence the 1st

December last, and continue till the 1st of July next, in favour of imports from any quarter of the Globe.

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TO THOMAS JEFFERSON.

NEW YORK, February 4, 1790.

DEAR SIR,—Your favor of January 9, inclosing one of September last, did not get to hand till a few days ago. The idea which the latter evolves is a great one, and suggests many interesting reflections to Legislators, particularly when contracting and providing for public debts. Whether it can be received in the extent to which your reasonings carry it is a question which I ought to turn more in my thoughts than I have yet been able to do before I should be justified in making up a full opinion on it. My first thoughts lead me to view the doctrine as not in *all respects* compatible with the course of human affairs. I will endeavour to sketch the grounds of my skepticism. "As the Earth belongs to the living, not to the dead, a living generation can bind itself only; in every society, the will of the majority binds the whole; according to the laws of mortality, a majority of those ripe for the exercise of their will do not live beyond the term of 19 years; to this term, then, is limited the validity of every act of the society, nor can any act be continued beyond this term, without an *express* declaration of the public will." This I understand to be the outline of the argument.

The acts of a political society may be divided into three classes:

1. The fundamental constitution of the Government.
2. Laws involving some stipulation which renders them irrevocable at the will of the Legislature.
3. Laws involving no such irrevocable quality.

1. However applicable in theory the doctrine may be to a Constitution, it seems liable in practice to some weighty objections.

Would not a Government, ceasing of necessity at the end of a given term, unless prolonged by some Constitutional Act pre-

vious to its expiration, be too subject to the casualty and consequences of an interregnum?

Would not a Government so often revised become too mutable and novel to retain that share of prejudice in its favor which is a salutary aid to the most rational Government?

Would not such a periodical revision engender pernicious factions that might not otherwise come into existence, and agitate the public mind more frequently and more violently than might be expedient?

2. In the second class, of acts involving stipulations, must not exceptions, at least to the doctrine, be admitted?

If the earth be the gift of *nature* to the living, their title can extend to the earth in its *natural* state only. The *improvements* made by the dead form a debt against the living, who take the benefit of them. This debt cannot be otherwise discharged than by a proportionate obedience to the will of the authors of the improvements.

But a case less liable to be controverted may, perhaps, be stated. Debts may be incurred with a direct view to the interests of the unborn, as well as of the living. Such are debts for repelling a conquest, the evils of which descend through many generations. Debts may even be incurred principally for the benefit of posterity. Such, perhaps, is the debt incurred by the United States. In these instances the debts might not be dischargeable within the term of 19 years.

There seems, then, to be some foundation in the nature of things, in the relation which one generation bears to another, for the *descent* of obligations from one to another. Equity may require it. Mutual good may be promoted by it. And all that seems indispensable in stating the account between the dead and the living is, to see that the debts against the latter do not exceed the advances made by the former. Few of the incumbrances entailed on nations by their predecessors would bear a liquidation even on this principle.

3. Objections to the doctrine, as applied to the third class of acts, must be merely practical. But in that view alone they appear to be material.



Unless such temporary laws should be kept in force by acts regularly anticipating their expiration, all the rights depending on positive laws, that is, most of the rights of property, would become absolutely defunct, and the most violent struggles ensue between the parties interested in reviving, and those interested in reforming, the antecedent state of property. Nor does it seem improbable that such an event might be suffered to take place. The checks and difficulties opposed to the passage of laws, which render the power of repeal inferior to an opportunity to reject, as a security against oppression, would here render the latter an insecure provision against anarchy. Add to this, that the very possibility of an event so hazardous to the rights of property could not but depreciate its value; that the approach of the crisis would increase the effect; that the frequent return of periods superseding all the obligations dependent on antecedent laws and usages must, by weakening the sense of them, co-operate with motives to licentiousness already too powerful; and that the general uncertainty and vicissitudes of such a state of things would, on one side, discourage every useful effort of steady industry pursued under the sanction of existing laws, and, on the other, give an immediate advantage to the more sagacious over the less sagacious part of the Society.

I can find no relief from such embarrassments but in the received doctrine that a *tacit* assent may be given to established Governments and laws, and that this assent is to be inferred from the omission of an express revocation. It seems more practicable to remedy by well-constituted Governments the pestilent operation of this doctrine in the unlimited sense in which it is at present received, than it is to find a remedy for the evils necessarily springing from an unlimited admission of the contrary doctrine.

Is it not doubtful whether it be possible to exclude wholly the idea of an implied or tacit assent, without subverting the very foundation of civil society?

On what principle is it that the voice of the majority binds the minority? It does not result, I conceive, from a law of na-

ture, but from compact founded on utility. A greater proportion might be required by the fundamental Constitution of Society, if under any particular circumstances it were judged eligible. Prior; therefore, to the establishment of this principle, *unanimity* was necessary; and rigid Theory accordingly presupposes the assent of every individual to the rule which subjects the minority to the will of the majority. If this assent cannot be given tacitly, or be not implied where no positive evidence forbids, no person born in Society could, on attaining ripe age, be bound by any acts of the majority, and either a unanimous renewal of every law would be necessary as often as a new member should be added to the society, or the express consent of every new member be obtained to the rule by which the majority decides for the whole.

If these observations be not misapplied, it follows that a limitation of the validity of all acts to the computed life of the generation establishing them is in some cases not required by theory, and in others not consistent with practice. They are not meant, however, to impeach either the utility of the principle as applied to the cases you have particularly in view, or the general importance of it in the eye of the philosophical Legislator. On the contrary, it would give me singular pleasure to see it first announced to the world in a law of the United States, and always kept in view as a salutary restraint on living generations from unjust and unnecessary burdens on their successors. This is a pleasure, however, which I have no hope of enjoying. It is so much easier to descry the little difficulties immediately incident to every great plan than to comprehend its general and remote benefits, that further light must be added to the Councils of our Country before many truths which are seen through the medium of philosophy become visible to the naked eye of the ordinary politician.

TO THOMAS JEFFERSON.

NEW YORK, Feb<sup>y</sup> 14, 1790.

DEAR SIR,—We proceed slowly in business. The Report of Mr. Hamilton has been, of late, the principal subject of debate. On the foreign debt the vote has been unanimous. On the domestic, a reduction of the transferred principal has been brought into view by several arguments and propositions. My idea is that there should be no interference of the public in favour of the public either as to principal or interest, but that the highest market price only should be allowed to the purchasers, and the balance be applied to solace the original sufferers, whose claims were not in conscience extinguished by a *forced* payment in *depreciated* certificates. The equity of this proposition is not contested. Its impracticability will be urged as an insuperable objection. I am aware of the difficulties of the plan, but believe they might be removed by one-half the exertion that will be used to collect and colour them.

A Bill for taking a census has passed the House of Representatives, and is with the Senate. It contained a schedule for ascertaining the component classes of the Society, a kind of information extremely requisite to the Legislator, and much wanted for the science of Political Economy. A repetition of it every ten years would hereafter afford a most curious and instructive assemblage of facts. It was thrown out by the Senate as a waste of trouble and supplying materials for idle people to make a book. Judge by this little experiment of the reception likely to be given to so great an idea as that explained in your letter of September.

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TO EDMUND PENDLETON.

NEW YORK, March 4, 1790.

DEAR SIR,—Your recommendation of Doctor M—— was handed me some time ago. I need not tell you that I shall

always rely on your vouchers for merit, or that I shall equally be pleased with opportunities of forwarding your wishes.

The only act of much consequence which the present Session has yet produced is one for enumerating the Inhabitants, as the basis of a reapportionment of the Representation. The House of Representatives has been chiefly employed of late on the Report of the Secretary of the Treasury. As it has been printed in all the Newspapers, I take for granted that it must have fallen under your eye. The plan which it proposes is in general well-digested, and illustrated and supported by very able reasoning. It has not, however, met with universal concurrence in every part. I have myself been of the number who could not suppress objections. I have not been able to persuade myself that the transactions between the United States and those whose services were most instrumental in saving their country did, in fact, extinguish the claims of the latter on the justice of the former; or that there must not be something radically wrong in suffering those who rendered a bona fide consideration to lose  $\frac{7}{8}$  of their dues, and those who have no particular merit towards their country to gain 7 or 8 times as much as they advanced. In pursuance of this view of the subject, a proposition was made for redressing, in some degree, the inequality. After much discussion, a large majority was in the negative. The subject at present before a Committee of the whole is the proposed assumption of the State debts. On this, opinions seem to be pretty equally divided. Virginia is endeavoring to incorporate with the measure some effectual provision for a final settlement and payment of balances among the States. Even with this ingredient, the project will neither be just nor palatable if the assumption be referred to the present epoch, and by that means deprives the States who have done most of the benefit of their exertions. We have accordingly made an effort, but without success, to refer the assumption to the state of the debts at the close of the war. This would probably add  $\frac{1}{3}$  more to the amount of the debts, but would more than compensate for this by rendering the measure more just and satisfactory. A simple, unqualified assumption of the existing debts would bear pecu-

liarily hard on Virginia. She has paid, I believe, a greater part of her quotas since the peace than Massachusetts. She suffered far more during the war. It is agreed that she will not be less a creditor on the final settlement; yet, if such an assumption were to take place, she would pay towards the discharge of the debts in the proportion of  $\frac{1}{3}$  and receive back to her creditor citizens  $\frac{1}{7}$  or  $\frac{1}{8}$ , whilst Massachusetts would pay not more than  $\frac{1}{7}$  or  $\frac{1}{8}$ , and receive back not less than  $\frac{1}{3}$ . The case of South Carolina is a still stronger contrast. In answer to this inequality we are referred to the final liquidation, for which provision may be made. But this may *possibly* never take place. It will *probably* be at some distance. The payment of the balances among the States will be a fresh source of delay and difficulties. The merits of the plan, independently of the question of equity, are also controvertible, though on the other side there are advantages which have considerable weight.

We have no late information from Europe more than what the newspapers contain. France seems likely to carry through the great work in which she has been laboring. The Austrian Netherlands have caught the flame, and with arms in their hands have renounced the Government of the Emperor forever. Even the lethargy of Spain begins to awake at the voice of liberty, which is summoning her neighbors to its standard. All Europe must by degrees be aroused to the recollection and assertion of the rights of human nature. Your good will to mankind will be gratified with this prospect, and your pleasure as an American be enhanced by the reflection that the light which is chasing darkness and despotism from the old World is but an emanation from that which has procured and succeeded the establishment of liberty in the new.

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TO DOCTOR RUSH.

NEW YORK, March 7, 1790.

DEAR SIR,—Although your last favor of the 27 February does not require any particular answer, I cannot let this occasional

correspondence drop without thanking you for so interesting a supplement to your former remarks on the subject lately decided in the House of Representatives. It not only gives me pleasure, but strengthens my conviction, to find my sentiments ratified by those of enlightened and disinterested judges. If we are to take for the criterion of truth a majority of suffrages, they ought to be gathered from those philosophical and patriotic citizens who cultivate their reason apart from every scene that can disturb its operations, or expose it to the influence of the passions. The advantage enjoyed by public bodies in the light struck out by the collision of debate is but too often overbalanced by the heat proceeding from the same source. Many other sources of involuntary error might be added. It is no reflection on Congress to admit for one the united voice of the place where they may happen to deliberate. Nothing is more contagious than opinion, especially on questions which, being susceptible of very different glosses, beget in the mind a distrust of itself. It is extremely difficult, also, to avoid confounding the local with the public opinion, and to withhold the respect due to the latter from the fallacious specimen exhibited by the former. Without looking, therefore, beyond innocent causes of fallibility, I can retain the sentiments which produced the late motion,\* notwithstanding the disproportion of members by which it was outvoted; especially when I can fortify them with such reflections as your two favors have communicated. Indeed, it seems scarcely possible for me ever to be persuaded that there is not something radically immoral, and consequently impolitic, in suffering the rewards due for the most valuable of all considerations, the defence of liberty, to be transferred from the gallant earners of them to that class of people who now take their places. It is equally inconceivable, if the new Constitution was really calculated to attain more perfect justice, that an exposition of it can be right which confirms and enforces the most flagrant injustice that ever took place under the old.

\* To divide the payment of the public debt between the original and purchasing holders of certificates.

I must add my thanks for the little pamphlet covered by your last. I have for some time been a thorough believer in the doctrine which it exemplifies, and am not unapprized of the obligation which, in common with other proselytes, I am under to the lessons of your pen.

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## TO THOMAS JEFFERSON.

NEW YORK, March 8, 1790.

DEAR SIR,—The newspapers will have shewn you the late proceedings of the House of Representatives. The present subject of deliberation is the proposed assumption of the State debts. Opinions are nearly balanced on it. My own is no otherwise favorable to the measure than as it may tend to secure a final settlement and *payment* of balances among the States. An assumption even under such circumstances is liable to powerful objections. In the form proposed that object would be impeded by the measure, because it interests South Carolina and Massachusetts, who are to be chiefly relieved, against such a settlement and payment. The immediate operation of the plan would be peculiarly hard on Virginia. I think, also, that an increase of the federal debt will not only prolong the evil, but be further objectionable as augmenting a trust already sufficiently great for the virtue and number of the federal Legislature.

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## TO EDMUND RANDOLPH.

NEW YORK, March 14, 1790.

MY DEAR FRIEND,—I have received the few lines you dropped me from Baltimore, and daily expect those promised from Fredericksburg. I am made somewhat anxious on the latter point by the indisposition under which you were travelling.

The question depending at your departure was negatived by a very large majority, though less than stated in the news-

papers. The causes of this disproportion, which exceeds greatly the estimate you carried with you, cannot be altogether explained. Some of them you will conjecture. Others I reserve for conversation, if the subject should ever enter into it. As far as I have heard, the prevailing sense of the people at large does not coincide with the decision, and that delay and other means might have produced a very different result.

The assumption of the State debts has of late employed most the House of Representatives. A majority of 5 agreed to the measure in Committee of the whole. But it is yet to pass many defiles, and its enemies will soon be reinforced by North Carolina. The event is consequently very doubtful. It could not be admissible to Virginia unless subservient to final justice, or so varied as to be more consistent with intermediate justice. In neither of these respects has Virginia been satisfied, and the whole delegation is against the measure, except *Bland*!

The *substance* of the Secretary's arrangements of the Debts of the Union has been agreed to in Committee of the whole, and will probably be agreed to by the House. The number of alterations have been reduced for the sake of greater simplicity, and a disposition appears at present to shorten the duration of the Debt. According to the Report, the debt would subsist 40 or 50 years, which, considering intermediate probabilities, amounts to a perpetuity.

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TO EDMUND RANDOLPH.

NEW YORK, March 21, 1790.

DEAR SIR,—Your favor of the 10th came to hand yesterday. I feel much anxiety for the situation in which you found Mrs. Randolph; but it is somewhat alleviated by the hopes which you seem to indulge.

The language of Richmond on the proposed discrimination does not surprise me. It is the natural language of the towns, and decides nothing. Censure, I well knew, would flow from



those sources. Should it also flow from other sources, I shall not be the less convinced of the right of the measure, or the less satisfied with myself for having proposed it. The conduct of the Gentlemen in Amherst and Culpeper proves only that their personal animosity is unabated. Here, it is a charge against me that I sacrificed the federal to anti-federal sentiments. I am at a loss to divine the use that C. and S. can make of the circumstance.

The debates occasioned by the Quakers have not yet expired. The stile of them has been as shamefully indecent as the matter was evidently misjudged. The true policy of the Southern members was to have let the affair proceed with as little noise as possible, and to have made use of the occasion to obtain, along with an assertion of the powers of Congress, a recognition of the restraints imposed by the Constitution.

The State debts have been suspended by the preceding business more than a week. They lose ground daily, and the assumption will, I think, ultimately be defeated. Besides a host of objections against the propriety of the measure in its present form, its practicability becomes less and less evident. The case of the paper money in Georgia, S. Carolina, N. Carolina, &c., to Rhode Island, is a most serious difficulty. It is a part of the debts of those States, and comes in part within the principle of the assumption.

A packet arrived a few days ago, but threw little light on the affairs of Europe. Those of France do not recede, but their advance does not keep pace with the wishes of liberty.

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TO EDMUND RANDOLPH.

NEW YORK, March 30, 1790.

MY DEAR FRIEND,—Your favor of the 15th, which requests an immediate acknowledgment, by some irregularity did not come to hand till I had received that of the 18th, nor till it was too late to comply with the request by the last mail. I have been so unlucky, also, as to miss seeing the President

twice that I have waited on him, in order to intimate the circumstances which you wish him to know. I shall continue to repeat my efforts until I shall have an opportunity of executing your commands.

The House have recommitted the Resolutions on the report of the Treasury. Those relating to the assumption of State debts were recommitted by a majority of two votes. The others, from an extreme repugnance in many to a separation of the two subjects. N. Carolina has 2 votes on the floor, which turned the scale. The final decision is precarious. The immediate decision will repeal the former one in favour of the assumption, unless the composition of the House or the Committee should be varied to-morrow. Of six absent members, a majority will be opposed to the measure.

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TO EDMUND PENDLETON.

NEW YORK, April 4, 1790.

DEAR SIR,—You will see by the papers herewith covered that the proposed assumption of the State debts continues to employ the deliberations of the House of Representatives. The question seems now to be near its decision, and unfortunately, though so momentous a one, is likely to turn on a very small majority, possibly on a single vote. The measure is not only liable to many objections of a general cast, but in its present form is particularly unfriendly to the interests of Virginia. In this light it is viewed by all her representatives, except Col. Bland.

The American Revolution, with its foreign and future consequences, is a subject of such magnitude that every circumstance connected with it, more especially every one leading to it, is already, and will be more and more a matter of investigation. In this view, I consider the proceedings in Virginia during the crisis of the stamp act as worthy of particular remembrance, and a communication of them as a sort of debt due from her cotemporary citizens to their successors. As I know of no

memory on which my curiosity could draw for more correct or more judicious information, you must forgive this resort to yours. Were I to consult nothing but my curiosity, my enquiries would not be very limited. But as I could not indulge that motive fully without abusing the right I have assumed, my request goes no farther than that you will, as leisure and recollection may permit, *briefly* note on paper by whom and how the subject commenced in the Assembly; where the resolutions proposed by Mr. Henry *really* originated; what was the sum of the arguments for and against them, and who were the principal speakers on each side; with any little anecdotes throwing light on the transaction, on the characters concerned in it, or on the temper of the colony at the time.\*

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TO GEN<sup>L</sup> HENRY LEE.

NEW YORK, Ap<sup>l</sup> 13th, 1790.

DEAR SIR,—Your favor of the 4th ult. by Col. Lee was received from his hands on Sunday last. I have since received that of the 3d instant. The antecedent one from Alexandria, though long on the way, was received some time before. In all these, I discover strong marks of the dissatisfaction with which you behold our public prospects. Though in several respects they do not comport with my wishes, yet I cannot feel all the despondency which you seem to give way to. I do not mean that I entertain much hope of the Potowmac; that seems pretty much out of sight; but that other measures in view, however improper, will be less fatal than you imagine.

The plan of discrimination has met with the reception in Virginia on which I calculated. The towns would for obvious reasons disrelish it, and for a time they always set public opinion. The country in this region of America, in general, if I am not misinformed, has not been in unison with the cities,

\* The answer of Mr. P. was sent to Mr. Wirt when collecting materials for his life of P. Henry, and not returned.

nor has any of the latter, except this, been unanimous against the measure. Here the sentiment was in its full vigor, and produced every exertion that could influence the result.

I think with you that the Report of the Secretary of the Treasury is faulty in many respects; it departs particularly from that simplicity which ought to be preserved in finance more than anything else. The novelty and difficulty of the task he had to execute form no small apology for his errors, and I am in hopes that in some instances they will be diminished, if not remedied.

The proposed assumption of the State debts has undergone repeated discussions and contradictory decisions. The last vote was taken yesterday in a Committee of the whole, and passed in the negative, 31 vs. 29. The minority do not abandon, however, their object, and tis impossible to foretell the final destiny of the measure. It has some good aspects, and under some modifications would be favorable to the pecuniary interests of Virginia, and not inconsistent with the general principle of justice. In any attainable form it would have neither of these recommendations, and is, moreover, liable to strong objections of a general nature. It would certainly be wrong to force an affirmative decision on so important and controvertible a point by a bare majority, yet I have little hope of forbearance from that scruple. Massachusetts and S. Carolina, with their allies of Connecticut and N. York, are too zealous to be arrested in their project, unless by the force of an adverse majority.

I have received your reflections on the subject of a public debt with pleasure. In general they are, in my opinion, just and important. Perhaps it is not possible to shun some of the evils you point out, without abandoning too much the re-establishment of public credit. But as far as this object will permit, I go on the principle that a public debt is a public curse, and in a Republican Government a greater than in any other.

TO EDMUND PENDLETON.

NEW YORK, April 13, 1790.

DEAR SIR,—I thank you for your favor of the 2nd instant. From the sentiments expressed in it, you will hear with pleasure that the proposed assumption of the State debts was yesterday negatived, after many days' deliberation, by 31 vs. 29. We hoped that this vote would have been mortal to the project. It seems, however, that it is not yet to be abandoned. The other part of the secretary's Report has been studiously fastened to the assumption by the friends of the latter, and of course has made no progress.

A British packet arrived yesterday, but has had a long passage, and I do not find that she brings any news.

I am, dear sir, yours most affectionately.

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TO JAMES MONROE.

NEW YORK, April 17, 1790.

DEAR SIR,—The House of Representatives are still at the threshold of the Revenue business. The assumption of the State debts is the great obstacle. A few days ago it was reconsidered, and rejected by 31 against 29. The measure is not, however, abandoned. It will be tried in every possible shape by the zeal of its patrons. The Eastern members talk a strange language on the subject. They avow, some of them at least, a determination to oppose all provision for the public debt which does not include this, and intimate danger to the Union from a refusal to assume. We shall risk their prophetic menaces if we should continue to have a majority.

TO EDMUND PENDLETON.

NEW YORK, May 2, 1790.

DEAR SIR,—I thank you very sincerely for the readiness with which you have complied with my troublesome request on the subject of the Stamp act. I made it on a supposition that you had been present at the proceedings of the Virginia Assembly, which I find was not the case. But, knowing the accuracy and extent of your intelligence on all such interesting occurrences, I consider the particulars with which you have favored me as not the less authentic on that account.

You were right in predicting that the assumption would not be abandoned as long as new shapes could be devised for the measure. I understand that the leading advocates persist in declarations of their hopes of final success, and that new experiments are in agitation. Since my last, a vote has passed by a large majority separating that part of the Secretary's plan from the provision for the federal debt, and bills have been ordered in for the latter alone. This will embarrass the efforts in favor of the assumption, but will not defeat it, if by any means a majority can be made up on that side.

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TO EDMUND RANDOLPH.

NEW YORK, May 19, 1790.

MY DEAR FRIEND,—The President has been *critically* ill for some days past, but is now, we hope, out of danger; his complaint is a peripneumony, united probably with the Influenza. Since my last, I have found that I did not go too far in intimating that the cause of your delay would forbid the smallest criticism on it. I earnestly pray that you may no longer have occasion to plead that apology.

In consequence of a petition from New Hampshire, the subject of our commercial relation to Great Britain has been revived. A majority of the House of Representatives seem disposed to make a pretty bold experiment; and I think it will meet a very

different reception in the Senate from the measure tried at the last session. If it fails, it will be owing to a dislike of the preference to Nations in Treaty.

The debt is not yet funded. The zealots for the assumption of the State debts keep back, in hopes of alarming the zealots for the federal debt. I understand that another effort is to be made for the assumption. Motives are felt, I suspect, which will account for the perseverance.

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TO JAMES MONROE.

NEW YORK, June 1, 1790.

DEAR SIR,—The assumption has been revived, and is still depending. I do not believe it will take place, but the event may possibly be governed by circumstances not at present fully in view. The funding bill for the proper debt of the United States is engrossed for the last reading. It conforms in substance to the plan of the Secretary of the Treasury. You will have seen by late papers that an experiment for navigation and commercial purposes has been introduced. It has powerful friends, and from the present aspect of the House of Representatives will succeed there by a great majority. In the Senate its success is not improbable, if I am rightly informed. You will see by the inclosed paper that a removal from this place has been voted by a large majority of our House. The other is pretty nearly balanced. The Senators of the 3 Southern States are disposed to couple the permanent with the temporary question. If they do, I think it will end in either an abortion of both, or in a decision of the former in favour of the Delaware. I have good reason to believe that there is no serious purpose in the Northern States to prefer the Potowmac, and that, if supplied with a pretext for a very hasty decision, they will indulge their secret wishes for a permanent establishment on the Delaware. As Rhode Island is again in the Union, and will probably be in the Senate in a day or two, the Potowmac has the less to hope and the more to fear from this quarter. Our friend, Col. Bland, was

a victim this morning to the influenza, united with the effects and remains of previous indisposition. His mind was not right for several days before he died. The President has been at the point of death, but is recovered. Mr. Jefferson has had a tedious spell of the head-ache. It has not latterly been very severe, but is still not absolutely removed.

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TO JAMES MONROE.

NEW YORK, June 17, 1790.

DEAR SIR,—You will find in the inclosed papers some account of the proceedings on the question relating to the seat of Government. The Senate have hung up the vote for Baltimore, which, as you may suppose, could not have been seriously meant by many who joined in it. It is not improbable that the permanent seat may be coupled with the temporary one. The Potowmac stands a bad chance, and yet it is not impossible that in the vicissitudes of the business it may turn up in some form or other.

The assumption still hangs over us. The negative of the measure has benumbed the whole revenue business. I suspect that it will yet be unavoidable to admit the evil in some qualified shape. The funding bill is before the Senate, who are making very free with the plan of the Secretary. A committee of that body have reported that the alternatives be struck out, the interest reduced absolutely to 4 per cent., and, as I am informed, the indents be not included in the provision for the principal.

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TO EDMUND PENDLETON.

NEW YORK, June 22, 1790.

DEAR SIR,—The pressure of business as the session approaches its term, the earlier hour at which the House of Representatives has for some time met, and the necessity of devoting a part of the interval to exercise, after so long a confinement, have obliged



me to deny myself the pleasure of communicating regularly with my friends. I regret much that this violation of my wishes has unavoidably extended itself to the correspondences on which I set the greatest value, and which, I need not add, include yours. The regret is the greater, as I fear it will not be in my power to atone for past omissions by more punctuality during the residue of the session. In your goodness alone I must consequently look for my title to indulgence.

The funding and Revenue systems are reduced by the discord of opinions into a very critical state. Out of this extremity, however, some effective provision must, I think, still emerge. The affair of the State debts has been the great source of delay and embarrassment, and, from the zeal and perseverance of its patrons, threatens a very unhappy issue to the session, unless some scheme of accommodation should be devised. The business of the seat of Government is become a labyrinth, for which the votes printed furnish no clue, and which it is impossible in a letter to explain to you. We are endeavoring to keep the pretensions of the Potowmac in view, and to give to all the circumstances that occur a turn favorable to it. If any arrangement should be made that will answer our wishes, it will be the effect of a coincidence of causes as fortuitous as it will be propitious. You will see by the papers inclosed that Great Britain is itching for war. I do not see how one can be avoided, unless Spain should be frightened into concessions. The consequences of such an event must have an important relation to the affairs of the United States. I had not the pleasure of seeing Col. Hoomes during his momentary stay in New York, but had that of hearing that he gave a very favorable account of your health.

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TO JAMES MONROE.

NEW YORK, July 4, 1790.

DEAR SIR,—You will find by one of the Gazettes herewith sent, that the bill fixing the permanent seat of Government on the Potowmac, and the temporary at Philadelphia, has got

through the Senate. It passed by a single voice only, Izzard and Few having both voted against it. Its passage through the House of Representatives is probable, but attended with great difficulties. If the Potowmac succeeds, even on these terms, it will have resulted from a fortuitous coincidence of circumstances which might never happen again.

The provision for the public debt has been suspended for some time in the Senate by the question relating to the seat of Government. It is now resumed in that House, and it is to be hoped will soon be brought to an issue. The assumption sleeps, but I am persuaded will be awakened on the first dawn of a favorable opportunity. It seems, indeed, as if the friends of the measure were determined to risk everything rather than suffer that finally to fail.

We hear nothing further of the controversy between England and Spain.

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TO JAMES MONROE.

NEW YORK, July 24, 1790.

DEAR SIR,—After all the vicissitudes through which the assumption has passed, it seems at present in a fair way to succeed as part of the general plan for the public debt. The Senate have included it among their amendments to the funding bill, and a vote of yesterday in the House of Representatives indicates a small majority in favor of the measure. In its present form it will very little affect the interest of Virginia in either way. I have not been able to overcome my other objections, or even to forbear urging them. At the same time, I cannot deny that the crisis demands a spirit of accommodation to a certain extent. If the measure should be adopted, I shall wish it to be considered as an unavoidable evil, and *possibly* not the worst side of the dilemma.

TO EDMUND PENDLETON.

PHILADELPHIA, Jan<sup>y</sup> 2d, 1791.

DEAR SIR,—Previous to my leaving New York, I received a letter from you which was not then answered, because the subject of it required more consideration than could then be spared, and because an answer was not prompted by anything agitated or proposed on the subject in Congress. I am afraid that notwithstanding the interval which has passed, I am still not sufficiently prepared to do justice to your queries, some of which are of a delicate, and all of which are of an important nature. I am, however, the less concerned on this account, as I am sure that your own reflections will have embraced every idea which mine, if ever so mature, could have suggested.

Your first quere is, “are the words of the Treaty, ‘there shall be no legal impediment to the bona fide recovery of debts on either side,’ a law of repeal, or a covenant that a law of repeal shall be passed?” As Treaties are declared to be the supreme *law* of the land, I should suppose that the *words* of the *treaty* are to be taken for the *words* of the *law*, unless the stipulation be expressly or necessarily executory, which does not in this instance appear to be the case.

“Was not the contrary the sense of the Congress who made the Treaty, when they called on the States to repeal the several laws containing such impediments?” As well as I recollect, the act of Congress on that occasion supposed the impediments to be repealed by the Treaty, and recommended a repeal by the States, merely as declaratory, and in order to obviate doubts and discussions. Perhaps, too, on a supposition that a legal repeal might have been necessary previous to the new Constitution, it may be rendered unnecessary by the terms of this instrument above quoted, which seem to give a *legal* force to the Treaty.

“Admitting the treaty to be a law of repeal, what is the extent of it? does it repeal all acts of limitation, and such as regulate the modes of proving debts?” This question probably involves several very nice points, and requires a more critical knowledge

of the state of the American laws, the course of legal proceedings, and the circumstances of the British debts, than I possess. Under this disadvantage, I am afraid to say more than that the probable intention of the parties, and the expression "bona fide recovery of debts," seem to plead for a liberal, and even favorable interpretation of the article. Unless there be very strong and clear objections, such an interpretation would seem to require that the debts should be viewed as in the state in which the original obstacles to their recovery found them, so far at least as the nature of the case will permit.

"What is meant by the Supreme law, as applied to treaties? is it like those of the Medes and Persians, unalterable? or may not the contracting powers annul it by consent? or a breach on one side discharge the other from an obligation to perform its part?" Treaties, as I understand the Constitution, are made *Supreme* over the Constitutions and laws of the particular States, and, like a subsequent law of the United States, over pre-existing laws of the United States; provided, however, that the Treaty be within the prerogative of making Treaties, which, no doubt, has certain limits.

That the contracting powers can annul the Treaty cannot, I presume, be questioned, the same authority, precisely, being exercised in annulling as in making a Treaty.

That a breach on one side (even of a single article, each being considered as a condition of every other article) discharges the other, is as little questionable; but with this reservation, that the other side is at liberty to take advantage or not of the breach, as dissolving the Treaty. Hence I infer that the Treaty with Great Britain, which has not been annulled by mutual consent, must be regarded as in full force by all on whom its execution in the United States depends, until it shall be declared, by the party to whom a right has accrued by the breach of the other party to declare, that advantage is taken of the breach, and the Treaty is annulled accordingly. In case it should be advisable to take advantage of the adverse breach, a question may perhaps be started, whether the power vested by the Constitution with respect to Treaties in the President and Senate

makes them the competent Judges, or whether, as the Treaty is a law, the whole Legislature are to judge of its annulment, or whether, in case the President and Senate be competent in ordinary Treaties, the Legislative authority be requisite to annul a *Treaty of peace*, as being equivalent to a Declaration of war, to which that authority alone, by our Constitution, is competent.

Mr. White tells me he has sent you a copy of Col. Hamilton's plan of a Bank. I do not therefore inclose one. I augur that you will not be in love with some of its features. Mr. Randolph's Report on the Judiciary is not yet printed. I know that a copy is allotted for you. The report of the ways and means from the Treasury Department for the assumed debt has been in the newspapers, and has, I presume, found its way to you through that channel. There are objections of different sorts to the proposed mode of revenue. But as direct taxes would be still more generally obnoxious, and as imports are already loaded as far as they will bear, an excise is the only resource, and of all articles distilled spirits are least objectionable. Indeed, the duty imposed on imported rum forces a proportional duty on Country rum, and from the latter a duty on other spirits distilled at home results of course. There is, of consequence, scarce an option.

The Militia bill and a plan for disposing of the public lands have been under consideration for some time, and have made some progress, but are not in a state as yet from which their final shape can be decided. The Senate have before them the Bank, the report of the Secretary of State on weights and measures, and the case of Kentucky. This last subject has experienced no other difficulties than what proceeded from some little scruples concerning punctilios in the transition from the old to the new station of the District. I understand from Col. Monroe that the Senate are really disposed to forward the object. Vermont will probably soon follow, and may even be a member of the Union before the period to which the law of Virginia postpones the actual admission of Kentucky.

The Gazette of last evening contains the following paragraph under the Philadelphia head:

“By an express which arrived this afternoon at the post office, from Lewistown, near the capes of Delaware, we have received letters from London down to the 4th of November. The following letter will convey important intelligence to the American public:

*“Copy of a letter received by the Lord Mayor of London from the Duke of Leeds.*

“I have the honour to acquaint your Lordship that the Messenger Dressin arrived here this morning, with despatches from Mr. Fitzherbert, Ambassador at the Court of Madrid, dated Sunday, 24 October, containing an account that a Convention for terminating the differences which had arisen with that Court had been agreed upon between his Excellency, on the part of his Majesty, and the C<sup>te</sup> de Florida Blanca, on the part of the Catholic King; and that the Convention was to be signed and exchanged by those Ministers the 27 of the same month.

“London, 4 Nov<sup>r</sup>. (Signed) LEEDS.”

From this extract it may be concluded, unless there be a forgery not to be suspected, that the question which has been so long depending between Great Britain and Spain has issued in peace.

The date of my letter reminds me of the compliments which belong to the season. I offer them with the sincerest wish that they may yet often be repeated to you, and that the state of health in which this will find you may promise that satisfaction to all your friends, among whom no one will enjoy it in a higher degree than,

Your affectionate and obt serv<sup>t</sup>.

TO JAMES MADISON.

PHILADELPHIA, January 23, 1791.

HONORED SIR,—Since my last to my Brother A., I have received no letter from Orange, although yours and his both preceding left me particularly anxious to know the event of the Influenza attack on my mother's health.

The peace between Great Britain and Spain has been fully authenticated. The English accounts give a sad picture of affairs in France, but there are more direct accounts which are more favorable.

The House of Representatives has been long employed on the excise Bill. It is much opposed within and without doors. I think, however, it will pass, as less offensive than a direct tax, which seems to be the alternative. What reception will it meet with in your quarter? Stills will be taxed, but the owner will have the option of returning and paying for the quantity of spirits actually distilled.

The Kentucky Bill has come down from the Senate, and will probably go through the House of Represent<sup>s</sup> without difficulty. The Bank is also come from the Senate, but will not go through, if at all, without opposition. The militia and western land Bill wait for the conclusion of the excise Bill.

Let Mr. W. Webb know that I have received his papers from Col. Monroe, and have drawn and presented a petition for him. The fate of it is uncertain, and probably will not be known for a considerable time.

Your affectionate son.

What is the number of inhabitants in Orange, and what the state of the census in general?

TO EDMUND PENDLETON.

PHILADELPHIA, Feb'y 13, 1791.

DEAR SIR,—Since the receipt of your favor of the 15th January, I have had the further pleasure of seeing your valuable observations on the Bank more at length, in your communications to Mr. White. The subject has been decided, contrary to your opinion, as well my own, by large majorities in both Houses, and is now before the President. The power of incorporating cannot, by any process of safe reasoning, be drawn within the meaning of the Constitution as an appurtenance of any express power, and it is not pretended that it is itself an express power. The arguments in favor of the measure rather increased my dislike to it, because they were founded on remote implications which strike at the very essence of the Government, as composed of limited and enumerated powers. The plan is, moreover, liable to a variety of other objections, which you have so judiciously developed.

The excise is not yet returned by the Senate. It has undergone sundry alterations in that House, but none that affect its principle or will affect its passage. In many respects it is displeasing to me, and a greater evil than a direct tax. But the latter would not be listened to in Congress, and would, perhaps, be not less offensive to the ears of the people at large, particularly in the Eastern part of the Union. The Bill contains, as you would wish, an optional clause, permitting the owners of country stills to pay the tax on their capacity, or to keep an account of the liquors actually distilled, and pay according to that and no more.

The Bill for admitting Kentucky has passed into a law, and another for extending the privileges to Vermont, who is knocking at the door for it, has come from the Senate, and will not be opposed in the House of Representatives. The Bill for selling the public lands has made some progress, and I hope will go through. The fate of the Militia and several other important bills is problematical at the present Session, which will expire on the 4th of next month.



With the sincerest affection, I am, dear sir, most respectfully yours.

The enclosed paper, I observe, has a sketch of some of the arguments against the Bank. They are extremely mutilated, and in some instances perverted, but will give an idea of the turn which the question took.

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TO JAMES MADISON, ESQ.

PHILADELPHIA, February 13, 1791.

HONORED SIR,—I have received yours of the 31 ult<sup>o</sup>, and am glad to find that my sister Hite has withdrawn herself from the region of the small-pox. It gives me particular pleasure, also, to learn that my mother's health has been so far restored.

You will see by one of the enclosed papers that the price of wheat continues at from 8s. 4d. to 8s. 6d. Whether it will rise or fall, or how much, is more than I can say. I think the chances will justify your refusal of the Virginia prices at least.

I do not see what better you can do with your certificates than to subscribe them to the public fund at Richmond. Those from North Carolina are to be liquidated and subscribed here. You had best send them by Mr. Hite in the spring. I received Mr. Webb's papers from Col. Monroe, and laid them before the House of Representatives, with a petition, which has been referred to the secretary of the Treasury. The crowd of such business which had been previously referred to him makes it pretty certain that no report can be made to the present session. Let Mr. W. know this, if you please, and save me the trouble of writing to him.

The Excise Bill has not yet got through the Senate, where it is undergoing sundry alterations, but none that will materially affect it. The optional clause, permitting the owners of stills to pay either the tax on the size of the stills, or on the quantity actually distilled, will pretty certainly remain a part of the

Bill, and as an answer to the most popular objection to it. The Bill for *incorporating* a Bank has passed the two Houses by large majorities, and is before the President. It was opposed in both as being unconstitutional, as well as in other respects objectionable.

The arguments against it are extremely mutilated, and even perverted in the newspapers, but the sketch will give some idea of the turn of them.

The Bill for admitting Kentucky has become a law. Vermont is applying for the same privilege, and will be also gratified.

The subject immediately before the House of Representatives is the Bill for selling the Western Lands. It has made some progress, and I hope will get through. The other important Bills are in some danger of failing at the present session, which will end on the 4th of March.

I remain, your affectionate and dutiful son.

The earthquake was not felt here at all. The winter has been very dry, and, with intervals of mild spells, very cold. I am not informed of its effects on the winter grain, but suspect it must have been unfavorable.

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*Substance of a conversation held by James Madison, Jr., with Col. Beckwith, at the desire of Mr. Jefferson, Secretary of State.*

Last evening offered the first opportunity of breaking to Col. B. the subject for which he has been thought a proper channel to the Governor of Canada. It was explicitly made known to him, that besides its being generally understood that the N. W. Indians were supplied with the means of war from their intercourse with Detroit, &c., the president had received information, which he considered as certain, that ample supplies of that sort had, about the commencement of last campaign, been received

by the hostile tribes from places at present in British hands. It was observed to him at the same time, that as the United States had no other object in the present [Indian] war but to effect and establish peace on their frontier, it was obvious in what light such a circumstance must be viewed by them. And as a further consideration heightening the colour of the fact, he was reminded that the Indians in question were, without an exception, inhabitants of the acknowledged territory of the United States, and, consequently, stood in a certain relation to them well understood by the nations possessing territories on this continent.

The sum of his answer was, that as a fact so stated, however unaccountable it might be, was not to be contradicted, he could only undertake to affirm that it was impossible it could have proceeded directly or indirectly from the British Government, or have had the sanction or countenance of the authority on the spot. He multiplied assurances that the whole spirit and policy of their Government was opposed to Indian hostilities; and that the sentiments, views, and orders of Lord Dorchester discouraged them as much as possible. This he knew to be the case. He asked whether there were any particulars of time, place, or persons, contained in the information to the President; whether there was any evidence that the articles supplied were in greater quantities than were usual for other purposes than war; intimating that, if there were just ground of complaint, a regular statement and communication of it, in *any mode* that might be thought not improper, would be most correspondent with the customary proceedings in such cases. For himself, he should be very ready on receiving any such statements or communications to transmit them. He was here, however, not in any formal character; on the contrary, in an informal one—a very informal one, to be sure; and he entered into this conversation as between one private gentleman and another. He had, indeed, been a good while at New York before, as well as here, [Philadelphia,] since the removal of the Government. He hoped his stay would be rendered short by the arrival of some more authentic character. He was at New York before Mr.

Jefferson came into the office he now holds, and he believed it was known on what footing he was. Yet he had not in any respect been turned over to Mr. Jefferson, nor had anything passed that could give him any pretensions to be in any communication with the Secretary of State. Such a communication was no doubt thought improper by the Secretary of State with so informal a character, though in a way ever so informal. He did not undertake to suppose it was not right; especially as different forms of Governments have different modes of proceedings, &c.

The turn given to the conversation shewing pretty clearly a desire to make the occasion subservient to some further and direct intercourse with the Government, it was thought proper for that reason, as well as for avoiding the necessity of another conversation, to reply at once that it was not probable the information received by the President would be made known to him in any way more authentic than the present, which it was true, as he had observed, was merely a conversation between two private gentlemen; but if the fact that the President had received the information, as stated, was made sufficiently credible, the proper effect of the communication need not depend on the mode of it. If the dispositions of Lord Dorchester were such as were described, and of which his reputation for humanity and prudence left no room for doubt, any evidence amounting to probability only would ensure all the interference that might depend on him. The conduct of Governments towards formal and informal characters was certainly not within the compass of this conversation. It was probable, however, that no distinction was made by the Government here which was not made by all Governments; the difference between those characters seeming to lie not in the circumstance of the former being possessed of written and the latter of verbal authority, but in the greater publicity and formality of the written credentials produced from the proper source by the former. The evident impropriety of the military supplies afforded to the Indians required, no doubt, that the countenance of the British Government, or even the sanction of the officer on the spot, ought not

to be presumed as long as the fact could be otherwise explained; but as the effect of these aids was the same whether furnished by public authority or by vindictive or avaricious individuals, it was in every case to be expected that the abuse would be corrected; and the circumstance of the Indians in question being within the acknowledged limits of the United States, and receiving the means of war against them from a foreign source, was again brought into view as heightening the colour of the affair. With respect to the particulars of the fact, they did not seem to be material. In what degree the President was possessed of them could not be said. It might be difficult to ascertain the particulars, and yet the general fact be sufficiently established. As the Indians at War traded with British subjects only, their being able to carry on hostilities was of itself sufficient evidence in the case. It might be difficult, also, to mark precisely the line between supplies for war and for hunting; but it was probable that not only the difference of quantity demanded, but other indications, must leave little doubt of the purpose for which they were intended.

Col. B. professed the strongest disposition to do anything in his power, having been actuated by this disposition in all his communications to Canada, but repeated his wish for more exact information on the subject. The intelligence was itself so vague, and was communicated to him under such reserve, that he was really at a loss how to represent it. "May I, Sir, mention your name in the case?" He was answered, that, from the nature of the conversation, he would be under no restraint from mentioning any circumstance relating to it he pleased. "May I, Sir, say that I have your permission to use your name?" Answer. The permission being a part of the conversation, he must be equally free to mention it if he thought fit, though it was not perceived to be a circumstance very material. "Will you be so good, Sir, as to repeat the information you mention to have been received by the President?" This request being complied with, he said he should certainly look out for the first opportunity of making the matter known to Lord D., and if Mr. M. should be here on the receipt of an answer, he

should be made acquainted with it, repeating his declaration that it was impossible the British Government could in any respect have countenanced or approved any supplies to the Indians as an aid or encouragement to their hostilities.

JAMES MADISON.

PHILADELPHIA, April 18, 1791.

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TO THOMAS JEFFERSON.

NEW YORK, May 1, 1791.

DEAR SIR,— \* \* \* \* \*

I send you herewith a copy of Priestley's answer to Burke, which has been reprinted here. You will see by a note, page 56, how your idea of limiting the right to bind posterity is germinating under the extravagant doctrines of Burke on that subject. Paine's answer has not yet been received here. The moment it can be got, Freneau tells me it will be published in Childs' paper. It is said that the pamphlet has been suppressed in England, and that the author withdrew to France before or immediately after its appearance. This may account for his not sending copies to his friends in this country.

From conversations which I have casually heard, it appears that among the enormities produced by the spirit of speculation and fraud, a practice is spreading of taking out administration on the effects of deceased soldiers and other claimants leaving no representatives. By this knavery, if not prevented, a prodigious sum will be unsaved by the public, and reward the worst of its citizens. A number of adventurers are already engaged in the pursuit, and as they easily get security as administrators, and as easily get a commission on the usual suggestion of being creditors, they desire nothing more than to ascertain the name of the party deceased or missing, trusting to the improbability of their being detected or prosecuted by the public. It cannot but have happened, and is, indeed, a fact well understood, that the unclaimed dues from the United States are of very great amount. What a door is here open for col-

lusion also, if any of the clerks in the account offices are not proof against the temptation?

We understood in Philadelphia that during the suspension of the Bank bill in the hands of the President, its partizans here indulged themselves in reflections not very decent. I have reason to believe that the licentiousness of the tongues of speculators and Tories far exceeded anything that was conceived. The meanest motives were charged on him, and the most insolent menaces held over him, if not in the open streets, under circumstances not less marking the character of the party.

In returning a visit to Mr. King yesterday, our conversation fell on the conduct of Great Britain towards the United States, which he evidently laments as much as he disapproves. He took occasion to let me understand, that although he had been averse to the appearance of precipitancy in our measures, he should readily concur in them after all probability should be over of voluntary relaxations in the measures of the other party; and that the next session of Congress would present such a crisis if nothing to prevent it should intervene. He mentioned, also, that a young gentleman here (a son of W. Smith, now Chief Justice of Canada) gives out, as information from his friends in England, that no Minister will be sent to this country until one shall have previously arrived there. What credit may be due to this person or his informers I do not know. It shews, at least, that the conversation and expectations which lately prevailed are dying away.

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TO THOMAS JEFFERSON.

NEW YORK, May 12, 1791.

DEAR SIR,— \* \* \* \* \*

I had seen Paine's pamphlet, with the preface of the Philadelphia Editor. It immediately occurred that you were brought into the Frontispiece in the manner you explain. But I had not foreseen the particular use made of it by the British parti-

zans. Mr. Adams can least of all complain. Under a mock defence of the Republican Constitutions of his Country, he attacked them with all the force he possessed, and this in a book with his name to it, whilst he was the Representative of his Country at a foreign Court. Since he has been the 2<sup>d</sup> magistrate in the new Republic, his pen has constantly been at work in the same cause; and though his name has not been prefixed to his anti-republican discourses, the author has been as well known as if that formality had been observed. Surely, if it be innocent and decent in one servant of the public thus to write attacks against its Government, it cannot be very criminal or indecent in another to patronize a written defence of the principles on which that Government is founded. The sensibility of Hammond and Bond for the indignity to the British Constitution is truly ridiculous. If offence could be justly taken in that quarter, what would France have a right to say to Burke's pamphlet, and the countenance given to it and its author, particularly by the King himself? What, in fact, might not the United States say, whose revolution and democratic Governments come in for a large charge of the scurrility lavished on those of France?

I do not foresee any objection to the route you propose. I had conversed with Beckley on a trip to Boston, &c., and still have that in view; but the time in view for starting from this place will leave room for the previous excursion. Health, recreation, and curiosity, being my objects, I can never be out of my way.

Not a word of news here. My letters from Virginia say little more than those you had received. Carrington says the returns have come in pretty thickly of late, and warrant the estimate founded on the Counties named to me some time ago. As well as I recollect these averaged upwards of 8,000 souls, and were considered by him as under the general average.

Yrs affectionately.



TO THOMAS JEFFERSON.

*(Extract.)*

NEW YORK, June 23d, 1791.

DEAR SIR,—

\* \* \* \*

You have no doubt seen the French Regulations on the subject of Tobacco, which commence hostilities against the British navigation Act. Mr. King tells me an attack on Paine has appeared in a Boston paper under the name of Publicola, and has an affinity in the stile as well as sentiments to the discourses on Davila.

I observed in a late paper here an extract from a Philadelphia pamphlet on the Bank. If the publication has attracted or deserves notice, I should be glad of a copy from you. I will write again in a few days; in the mean time remaining,

Yours most affectionately.

TO THOMAS JEFFERSON.

NEW YORK, June 27, 1791.

DEAR SIR,—I have seen Col. Smith more than once. He would have opened his budget fully to me, but I declined giving him the trouble. He has written to the President a statement of all his conversations with the British Ministry, which will get into your hands of course. He mentioned to me his wish to have put them there in the first instance, and your situation on his arrival as an apology for not doing it. From the complexion of the little anecdotes and observations which dropped from him in our interviews, I suspect that report has, as usual, far overrated the importance of what has been confided to him. General professions, which mean nothing, and the sending a Minister, which can be suspended at pleasure, or which, if executed, may produce nothing, are the amount of my present guesses.

Mr. Adams seems to be getting faster and faster into difficul-

ties. His attack on Paine, which I have not seen, will draw the public attention to his obnoxious principles more than everything he has published. Besides this, I observe in McLean's paper here a long extract from a sensible letter republished from Poughkeepsie, which gives a very unpopular form to his anti-republican doctrines, and presents a strong contrast of them with a quotation from his letter to Mr. Wythe in 1776.

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TO THOMAS JEFFERSON.

NEW YORK, July 10, 1791.

DEAR SIR,—

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The Bank shares have risen as much in the Market here as at Philadelphia. It seems admitted on all hands now that the plan of the institution gives a moral certainty of gain to the subscribers, with scarce a physical possibility of loss. The subscriptions are consequently a mere scramble for so much public plunder, which will be engrossed by those already loaded with the spoils of individuals. The event shews what would have been the operation of the plan, if, as *originally proposed*, subscriptions had been limited to the 1st of April, and to the favorite species of stock which the Bank Jobbers had monopolized. It pretty clearly appears, also, in what proportions the public debt lies in the Country, what sort of hands hold it, and by whom the people of the United States are to be governed. Of all the shameful circumstances of this business, it is among the greatest to see the members of the Legislature who were most active in pushing this job openly grasping its emoluments. Schuyler is to be put at the head of the Directors, if the weight of the New York subscribers can effect it. Nothing new is talked of here. In fact, stock-jobbing drowns every other subject. The Coffee-House is in an eternal buzz with the Gamblers.

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TO THOMAS JEFFERSON.

New York, July 13, 1791.

DEAR SIR,— \* \* \* \* \*

Beekley has just got back from his eastern trip. He says that the partizans of Mr. Adams's heresies in that quarter are perfectly insignificant in point of number; that particularly in Boston he is become distinguished for his unpopularity; that Publicola is probably the manufacture of his son, out of materials furnished by himself, and that the publication is generally as obnoxious in New England as it appears to be in Pennsylvania. If young Adams be capable of giving the dress in which Publicola presents himself, it is very probable he may have been made the Editor of his father's doctrines.

I hardly think the printer would so directly disavow the fact if Mr. Adams was himself the writer. There is more of method, also, in the arguments, and much less of clumsiness and heaviness in the style, than characterize his writings. I mentioned to you some time ago an extract from a piece in the Poughkeepsie paper as a sensible comment on Mr. Adams' doctrines. The whole has since been republished here, and is evidently from a better pen than any of the Anti-Publicolas I have seen. In Greenleaf's paper of to-day is a second letter from the same quarter, which confirms the character I have given of the Author.

We understand here that 800 shares in the Bank, committed by this City to Mr. Constable, have been excluded by the manner in which the business was conducted; that a considerable number from Boston met with the same fate, and that Baltimore has been kept out in toto. It is all charged on the manœuvres of Philadelphia, which is said to have secured a majority of the whole to herself. The disappointed individuals are clamorous of course, and the language of the place marks a general indignation on the subject. If it should turn out that the cards were packed for the purpose of securing the game to Philadelphia, or even that more than half the Institution, and of course the whole direction of it, have fallen into the hands of that city,

some who have been loudest in their plaudits whilst they expected to share in the plunder will be equally so in sounding the injustice of monopoly, and the danger of undue influence on the Government.

The packet is not yet arrived. By a vessel arrived yesterday, newspapers are received from London which are said to be later than any yet come to hand. I do not find that any particular facts of moment are handed out. The miscellaneous articles come to me thro' Childs' paper, which you get sooner than I could rehearse to you. It has been said here by the Anglicans that the President's message to Congress on the subject of the commercial disposition of Great Britain has been asserted openly by Mr. Pitt to be misrepresentation; and as it would naturally be traced to Gouverneur Morris, it has been suggested that he fell into the hands of the Chevalier Luzerne, who had the dexterity to play off his negotiations for French purposes. I have reason to believe that Beckwith has had a hand in throwing these things into circulation. I wish you success with all my heart in your efforts for Paine. Besides the advantage to him, which he deserves, an appointment for him at this moment would do public good in various ways.

Always and truly yours.

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TO THOMAS JEFFERSON.

NEW YORK, August 4, 1791.

DEAR SIR,—

\* \* \* \* \*

Stock and scrip continue to be the sole domestic subjects of conversation. The former has mounted in the late sales above par, from which a superficial inference would be drawn that the rate of interest had fallen below 6 per cent. It is a fact, however, which explains the nature of these speculations, that they are carried on with money borrowed at from 2½ per cent. a month, to 1 per cent. a week.

Adieu. Yours most affectionately.

TO THOMAS JEFFERSON.

NEW YORK, August 8, 1791.

MY DEAR SIR,— \* \* \* \* \*

It is surmised that the deferred debt is to be taken up at the next session, and some anticipated provision made for it. This may either be an invention of those who wish to sell, or it may be a reality imparted in confidence to the purchasers, or smelt out by their sagacity. I have had a hint that something is intended and has dropt from ——— ———, which has led to this speculation. I am unwilling to credit the fact until I have further evidence, which I am in a train of getting, if it exists. It is said that packet boats and expresses are again sent from this place to the Southern States, to buy up the paper of all sorts which has risen in the market here.

These and other abuses make it a problem whether the system of the old paper under a bad Government, or of the new under a good one, be chargeable with the greater substantial injustice. The true difference seems to be, that by the former the few were the victims to the many; by the latter, the many to the few. It seems agreed on all hands now, that the bank is a certain and gratuitous augmentation of the capitals subscribed, in a proportion of not less than 40 or 50 per cent.; and if the deferred debt should be immediately provided for in favour of the purchasers of it in the deferred shape, and since the unanimous vote that no change should be made in the funding system, my imagination will not attempt to set bounds to the daring depravity of the times. The stock-jobbers will become the pretorian band of the Government, at once its tool and its tyrant; bribed by its largesses, and overawing it by clamours and combinations.

Nothing new from abroad. I shall not be in Philadelphia till the close of the week.

Adieu. Yrs most affectionately.

TO ROBERT PLEASANTS.

PHILADELPHIA, October 30, 1791.

SIR,—The delay in acknowledging your letter of the 6th June last proceeded from the cause you conjectured. I did not receive it till a few days ago, when it was put into my hands by Mr. James Pemberton, along with your subsequent letter of the 8th August.

The petition relating to the Militia bill contains nothing that makes it improper for me to present it. I shall, therefore, readily comply with your desire on that subject. I am not satisfied that I am equally at liberty with respect to the other petition. Animadversions such as it contains, and which the authorized object of the petitioners did not require, on the slavery existing in our country, are supposed by the holders of that species of property to lessen the value by weakening the tenure of it. Those from whom I derive my public station are known by me to be greatly interested in that species of property, and to view the matter in that light. It would seem that I might be chargeable at least with want of candour, if not of fidelity, were I to make use of a situation in which their confidence has placed me to become a volunteer in giving a public wound, as they would deem it, to an interest on which they set so great a value. I am the less inclined to disregard this scruple as I am not sensible that the event of the petition would in the least depend on the circumstance of its being laid before the House by this or that person.

Such an application as that to our own Assembly, on which you ask my opinion, is a subject, in various respects, of great delicacy and importance. The consequences of every sort ought to be well weighed by those who would hazard it. From the view under which they present themselves to me, I cannot but consider the application as likely to do harm rather than good. It may be worth your own consideration whether it might not produce successful attempts to withdraw\* the privilege now al-

\* It so happened.

lowed to individuals, of giving freedom to slaves. It would at least be likely to clog it with a condition\* that the persons freed should be removed from the country; there being arguments of great force for such a regulation, and some would concur in it, who, in general, disapprove of the institution of slavery.

I thank you, sir, for the friendly sentiments you have expressed towards me, and am, with respect, your obt, humble servt.

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TO GEN<sup>L</sup> H. LEE.

PHILADELPHIA, Dec<sup>r</sup> 18th, 1791.

MY DEAR SIR,—I have received your favor of the 8th, and handed to Freneau the subscriptions inclosed for him. His paper, in the opinion here, justifies the expectations of his friends, and merits the diffusive circulation they have endeavoured to procure it.

I regret that I can administer no balm to the wound given by the first report of our Western disaster. You will have seen the official account which has gone into all the Newspapers. It does not seem to contain any of the saving circumstances you are so anxious to learn. The loss of blood is not diminished, and that of impression is as great as the most compleat triumph of the savages can render it. The measures planning for the reparation of the calamity are not yet disclosed. The suspected relation of Indian hostility to the Western posts became here, as with you, a subject of pretty free conversation.

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TO EDMUND PENDLETON.

PHILADELPHIA, Dec<sup>r</sup> 18, 1791.

DEAR SIR,—Your favor of —— afforded me much pleasure by the information it gave of the return of such flourishing

\* It so happened.

health, and has laid me under great obligation by the valuable state it enclosed of the great question lately argued in the federal court at Richmond. We are all anxious to learn the decision of the Judges, though there is a report that they decline giving their opinions; and were that not so, the importance of them is diminished by the probability of an appeal.

Notwithstanding the proportion of time which has run off, the last hand has been put to a very inconsiderable part of the business of the Session. The two Houses have been of late chiefly occupied by the Representation bill, which, both in its principles and consequences, is of the first importance. The House of Representatives, by a very great majority, decided in favor of the ratio of 1 for 30,000, as the most obvious intention of the Constitution, or at least of the amendment which is likely to be made a part of it, as most congenial with the republican character of the Government, and as most correspondent with the expectations of the public. In the Senate there were three opinions: one favoring the transfer of the fractions from the Eastern States, where they happen to fall more than on the Southern States; another favoring a small representation in the Government; and a third favoring a large representation. These opinions being strangely compounded in the same individuals, and divided among the body, produced as strange a checker of projects for new-modelling the ratio proposed by the other House. After a miscarriage of sundry of them, and a delay severely felt at Richmond, they at length, by the casting vote of the chair, agreed on a change of the ratio to 1 for 33,000. To this the House of Representatives disagreed, by a bare majority only. The Senate have insisted, and the question will probably be to-morrow renewed in the House of Representatives. Should they adhere, the Senate will probably recede. Should a conference be proposed, the issue will probably be less favorable. The chance may be bettered if Col. Lee should arrive in time, who is said to be on the road. But it may happen that a vote of concurrence on the part of the House of Representatives will cut the business short without a further appeal to the temper of the Senate.



Nothing is yet public with respect to any communications of Mr. Hammond with the Executive on the matters in general depending between this country and his. We only learn that he has authoritatively disavowed any encouragement or countenance from the Government of Canada to Indian hostilities against the United States, to which he adds, from analogy and his personal conviction, that no such countenance can have been afforded to the hostile views of the Creeks attached to Bowles. Major Thomas Pinckney, of South Carolina, is to be the counter Minister of the United States at the Court of Great Britain.

The French revolution seems to have succeeded beyond the most sanguine hopes. The King, by freely accepting the Constitution, has baffled the external machinations against it, and the peaceable election of a Legislative Assembly of the same complexion with their predecessors, and the regular commencement of their functions, have equally suppressed the danger of internal confusions.

With the most affectionate esteem, I remain, dear sir, your obt friend and serv<sup>t</sup>.

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TO EDMUND PENDLETON.

PHILADELPHIA, Jan<sup>y</sup> 21, 1792.

DEAR SIR,—I have delayed for some time writing, in the daily expectation that I should be able to resume the subject of the Representation bill, the progress and fate of which were mentioned in my last. A motion for reviving it in another form has been some days on the table, and is now the order of the day, but has been kept back partly by a general torpor resulting from the critical loss of the bill, and partly by the interference of other business. The motion alluded to proposes, as compensation for the present inequality of fractions, a repetition of the census in 4 or 5 years, which will have not only the effect of shortening the term of the fractions com-

plained of, but of preventing the accumulation of much greater inequalities within a period of ten years. This expedient is relished generally by the Southern States, and by New York and Vermont, which are growing States. It will be equally unpalatable to Massachusetts, Connecticut, &c., which are very willing to take the benefit of the future operation of an apportionment for ten years, although they raise so great an outcry against the little fractional advantage accruing to other States from the ratio of 1 for 30,000.

The House of Representatives has been occupied for some days, with shut doors, on the communications of the President relating to the Western Frontiers. There is a pretty general disposition to make the protection effectual, but a great want of unanimity as to the best means. It is probable that much will be left to the judgment of the President; and it is to be hoped that the lessons of past experience will not be without effect.

I have reserved for you a copy of the Report of the Secretary of the Treasury on Manufactures, for which I hoped to have found before this a private conveyance, it being rather bulky for the mail. Having not yet succeeded in hitting on an opportunity, I send you a part of it in a newspaper, which broaches a new Constitutional doctrine of vast consequence, and demanding the serious attention of the public. I consider it myself as subverting the fundamental and characteristic principle of the Government; as contrary to the true and fair, as well as the received construction, and as bidding defiance to the sense in which the Constitution is known to have been proposed, advocated, and adopted. If Congress can do whatever in their *discretion* can be *done by money*, and will promote the *General Welfare*, the Government is no longer a limited one, possessing enumerated powers, but an indefinite one, subject to particular exceptions. It is to be remarked that the phrase out of which this doctrine is elaborated is copied from the old Articles of Confederation, where it was always understood as nothing more than a general caption to the specified powers, and it is a

fact that it was preferred in the new instrument for that very reason, as less liable than any other to misconstruction.

Remaining always most affectionately yours.

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TO GEN<sup>L</sup> H. LEE.

PHILADELPHIA, Jan<sup>y</sup> 29th, 1792.

MY DEAR SIR,—Mr. Marshall called last evening with your favor of the 17th, but not being at home I have not yet seen him. The subject of Western defence is not yet over. In relation to it I have nothing to add to the communications in my last. You will see in Freneau's paper of to-morrow morning the justifying memorial of the Executive against the charge of neglecting the requisite pacific measures.

Your ideas of reformation in the Western system appear to me to be just in every point on which I can presume to judge. I wish they may occur to those who can give them due effect.

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TO GEN<sup>L</sup> H. LEE.

PHILADELPHIA, Feb<sup>y</sup> 12th, 1792.

MY DEAR SIR,—I have your favor of the 29th ultimo. The Senate have disagreed to that part of the Military Bill which augmented the regular establishment to about 5,000 men, and will probably send it back with that alteration. They prefer a completion only of the old Regiments, and a liberal provision for temporary forces. Nothing has passed from which I can conjecture, in the most remote degree, whether you may have to decide the point on which I consulted you. It was, as I observed to you, a mere contingency suggested by my own reflections, and so continues. The moment I discover what is meant to be done on that subject, whether correspondent with my own ideas or not, I shall drop you notice, as you desire.

With respect to the light in which an exchange of Station\* might be regarded within the State, it is not possible for me to judge so well as others. I feel the delicacy involved in your contemplation of the subject. Perhaps this may be one of the cases in which your own feelings will be the best counsellor.

The papers herewith inclosed will give you the current information, both foreign and domestic. Cornwallis and Tippoocut the principal figure in those of latest date. The situation of the former is more problematical than it was a few months before the siege of York. An assumption of the State debts is reported, and printed for the members. The motive of State interest in its favor, it appears, can be felt only by about one-third of the house, and yet I shall not be much surprised if the measure be carried.

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TO EDMUND PENDLETON.

PHILADELPHIA, Febr 21, 1792.

DEAR SIR,—Your favor of the 8th did not come to hand till this afternoon. I thank you for the very just and interesting observations contained in it. I have not yet met with an opportunity of forwarding the Report on manufactures, nor has that subject been yet regularly taken up. The Constitutional doctrine, however, advanced in the Report, has been anticipated on another occasion by its zealous friends; and I was drawn into a few hasty animadversions, the substance of which you will find in one of the inclosed papers. It gives me great pleasure to find my exposition of the Constitution so well supported by yours.

The Bill concerning the election of a President and vice President, and the eventual successor to both, which has long been depending, has finally got through the two Houses. It was made a question whether the number of electors ought to correspond with the new apportionment or the existing House

\* He was then Governor of Virginia. A military appointment had been suggested.—Ed.

of Representatives. The text of the Constitution was not decisive, and the Northern interest was strongly in favor of the latter interpretation. The intrinsic rectitude, however, of the former, turned the decision in both houses in favor of the Southern. On another point the Bill certainly errs. It provides that in case of a double vacancy, the Executive powers shall devolve on the President pro tempore of the Senate, and he failing, on the Speaker of the House of Representatives. The objections to this arrangement are various: 1. It may be questioned whether these are *officers* in the Constitutional sense. 2. If officers, whether both could be introduced. 3. As they are created by the Constitution, they would probably have been there designated if contemplated for such a service, instead of being left to the Legislative selection. 4. Either they will retain their *Legislative* stations, and then incompatible functions will be blended; or the incompatibility will supersede those stations, and then those being the substratum of the adventitious functions, these must fail also. The Constitution says, Congress may declare *what officers, &c.*, which seems to make it not an appointment or a translation, but an annexation of one office or trust to another office. The House of Representatives proposed to substitute the Secretary of State, but the Senate disagreed, and there being much delicacy in the matter it was not pressed by the former.

Another Representation Bill has gone to the Senate, modelled on the double idea mentioned in my last. 1 for 30,000 is the ratio fixed both for the late and the proposed census. The fate of the Bill in the Senate is problematical. The Bill immediately before the House of Representatives is a Militia Bill.

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TO EDMUND PENDLETON.

PHILADELPHIA, March 25, 1792.

DEAR SIR,—Your favor of the 14th came to hand yesterday. You were right in saying “that the Northern Cocks are true game,” but have erred in adding, “that they *die* hard on the

Representation bill." Their perseverance has gained them a final victory. The bill passed on Friday last in the form in which it was sent from the Senate; that is, with the distribution of 120 members among the States, and the provision for a second census expunged. It was carried in the Senate by a majority of one, and in the House of Representatives by a majority of two only. It now remains with the President. The history of this subject involves many unpleasing circumstances, and the result appears to me absolutely irreconcilable with the Constitution. The business next to be taken up are the reports from the Treasury on the new duties on trade, the enlargement of the times for subscribing to the funding system, including the assumption part of it, and a further assumption of the remaining State debts. The last alone is likely to become doubtful, and even that I consider as gaining converts daily. The two first will be urged, as, in the one case, a reasonable indulgence to such as have not obtained due information within the time limited: and the other, as an inevitable consequence of the military augmentation provided for the Western defence. The Militia bill, which originated in the House of Representatives, is before the Senate; and the Mint, which originated in the latter, will receive a decision on its 3<sup>d</sup> reading in the former to-morrow. We have no late information from Europe. That from St Domingo paints the distress of the Island in the most gloomy colours. The gambling system, which has been pushed to such an excess, is beginning to exhibit its explosions. D. . . , of N. York, the Prince of the tribe of speculators, has just become a victim to his enterprizes, and involves an unknown number to an unknown amount in his fate. It is said by some that his operations have extended to several millions of dollars, that they have been carried on by usurious loans from 3 to 6 per cent. per month, and that every description and gradation of persons, from the Church to the Stews, are among the dupes of his dexterity and the partners of his distress.

With the highest esteem and affection, I remain, dear sir, unalterably, your friend and serv<sup>t</sup>.

TO GEN<sup>L</sup> H. LEE.

PHILADELPHIA, March 28th, 1792.

MY DEAR SIR,—No nomination has yet been made of a new Commander for the Military establishment, nor of any of the Brigadiers authorized by the supplemental act lately passed. I refer to the Newspapers for the inferior appointments which have taken place. It is understood that S<sup>t</sup> Clair is not to remain in service. A proposition was yesterday made in the House of Representatives desiring the President to institute an enquiry into the cause of the Western calamities, which, for some particular reasons, was deemed improper, and was disagreed to, but another passed for appointing a committee to make an enquiry. It ought to have confined the Committee to such circumstances and abuses as are proper information for the House, and an explanatory resolution to that effect was laid on the table, and will probably be taken up to-day.

The Mint Bill sent from the Senate passed the House of Representatives yesterday. It was disliked and voted against by some as it stands, because it does not establish any systematic proportion of alloy, conforming to the arbitrary one of the last and basest edition of the Spanish dollar; but by most, on account of the expense, which is estimated at about 30,000 annually, and the additional weight of influence it throws into the preponderating scale. In the course of the bill a small circumstance happened worthy of notice, as an index of political biasses. The Senate had proposed in the Bill that on one side of the coin should be stamped the head of the President for the time being. This was attacked in the House of Representatives as a feature of Monarchy, and an amendment agreed to substituting an emblematic figure of Liberty; on the return of the Bill to the Senate the amendment was instantly disagreed to, and the Bill sent back to the House of Representatives. The question was viewed, on account of the rapidity and decision of the Senate, as more serious than at first. It was agitated with some fervor, and the first vote of the house confirmed by a large majority. The Senate perceiving the temper, and afraid of losing the Bill, as well

as unwilling to appeal in such a controversy to the public criticism, departed from their habitual perseverance, and acceded to the alteration proposed.

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TO EDMUND PENDLETON.

PHILADELPHIA, April 9, 1792.

DEAR SIR,—You will find by the inclosed papers that the President's negative has saved us from the unconstitutional allotment of 120 Representatives proposed by the Bill on that subject. The contest is now to be between a ratio of 1 for 30, and one for 33 thousand. If the next bill should begin with the former, I think it most likely to end in the latter, this being most favorable to the northern part of the Union—the circumstance which produced the curious project contained in the other Bill. The assumption of the remainder of the State debts, amounting to about 41,000,000 dollars, has been lately on the anvil. The first vote was in its favor. On the 2<sup>d</sup>, it was thrown out. It will, however, be pretty certainly renewed, and, in the end, not improbably carried. Besides a legion of objections against the measure, its being pressed is the more extraordinary, as the progress of the Commissioners for settling the final balances among the States promises a conclusion of the work almost as soon as provision can be made for paying the first interest on the debts to be assumed. For the plan is, to pass the assumption now, and leave the revenue to be provided hereafter. The obligation of public faith will then be an answer to all objections against the new taxes, or contrivances that will be called for. The ways and means for the Western defence have been the subject of latest discussion. They consist of increased duties on imports; and it is to be feared that advantage will be taken of the occasion to make the increase permanent, although the object is temporary. New York continues to be a scene of Bankruptcies, resulting from ———'s fate, and the fall of the Stocks. Every day exhibits new victims, and opens new scenes of usury, knavery, and folly. If the Stocks should



not be artificially revived, it is suspected that the ensuing week will be a very trying one to this City.

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TO GEN<sup>L</sup> H. LEE.

PHILADELPHIA. April 15th, 1792.

MY DEAR SIR,—I have already acquainted you with the nominations of the President for General Officers. They have all been confirmed by the Senate except Wilkinson, who, I am told, will be to-morrow. The Commander-in-Chief, it is said, went through the Senate rather against the bristles. The appointment is well relished of course by some, but does not escape, already, considerable criticism. I am glad to find by your letter of the 4th, which did not come to hand till yesterday, that your inclinations and your anticipations so well coincide as they related to yourself; with respect to mine, the latter are as little disappointed by the event as yours, though that is not the case as to the former. The disappointment, however, would be more regretted if your present station were less important, and particularly to our own Country, at the present moment.

Your remarks on the augmented duties are solid and weighty, but they will not prevail against the aversion to other taxes, and the collateral views to be answered by duties on imported manufactures. The worst is, that many of the new duties are made permanent, for which an advantage is taken of the pretexts blended with the original cause.

You will see by the paper republished from New York that the scene there is become more and more gloomy. There are reports which make it much worse. Speculating and Banking are as much execrated in that City as they were idolized a few weeks ago. The language will probably soon become general. Several failures have taken place here, notwithstanding the incessant and elaborate efforts to parry such a catastrophe as New York exhibits. It is thought, however, that an earthquake, though much slighter, will be inevitable within the present month. The train of circumstances which has led to these evils

is obvious; and reflections must soon force themselves on the public mind, from which it has hitherto been diverted by a fallacious prosperity, and uncontradicted declamation in the Gazette.

You know already that the President has exerted his power of checking the unconstitutional career of Congress. The judges have also called the attention of the public to Legislative fallibility, by pronouncing a law providing for Invalid Pensioners unconstitutional and void; perhaps they may be wrong in the execution of their power, but such an evidence of its existence gives inquietude to those who do not wish Congress to be controuled or doubted whilst its proceedings correspond with their views. I suspect, also, that the inquietude is increased by the relation of such a power to the Bank Law, in the public contemplation, if not in their own.

Nothing done since my last on the further assumption, or the Report on the public debt.

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*Substance of a Conversation with the President, 5 May, 1792.*

In consequence of a note this morning from the President, requesting me to call on him, I did so; when he opened the conversation by observing, that having some time ago communicated to me his intention of retiring from public life on the expiration of his four years, he wished to advise with me on the *mode* and *time* most proper for making known that intention. He had, he said, spoken with no one yet on those *particular points*, and took this opportunity of mentioning them to me, that I might consider the matter, and give him my opinion before the adjournment of Congress, or my departure from Philadelphia. He had, he said, forbore to communicate his intentions to any other persons whatever but Mr. Jefferson, Col. Hamilton, General Knox, and myself, and of late to Mr. Randolph. Col. Hamilton and Gen<sup>l</sup> Knox, he observed, were extremely importunate that he should relinquish his purpose, and had made pressing representations to induce him to it.

Mr. Jefferson had expressed his wishes to the like effect. He had not, however, persuaded himself that his continuance in public life could be of so much necessity or importance as was conceived, and his disinclination to it was becoming every day more and more fixed; so that he wished to make up his mind as soon as possible on the points he had mentioned. What he desired was, to prefer that mode which would be most remote from the appearance of arrogantly presuming on his re-election in case he should not withdraw himself, and such a time as would be most convenient to the public in making the choice of his successor. It had, he said, at first occurred to him, that the commencement of the ensuing session of Congress would furnish him with an apt occasion for introducing the intimation; but besides the lateness of the day, he was apprehensive that it might possibly produce some notice in the reply of Congress that might entangle him in farther explanations.

I replied, that I would revolve the subject as he desired, and communicate the result before my leaving Philadelphia, but that I could not but yet hope there would be no necessity at this time for his decision on the two points he had stated. I told him that when he did me the honor to mention the resolution he had taken, I had forborne to do more than briefly express my apprehensions that it would give a surprise and shock to the public mind, being restrained from enlarging on the subject by an unwillingness to express sentiments sufficiently known to him, or to urge objections to a determination which, if absolute, it might look like affectation to oppose; that the aspect which things had been latterly assuming seemed, however, to impose the task on all who had the opportunity of urging a continuance of his public services; and that, under such an impression, I held it a duty, not indeed to express my wishes, which would be superfluous, but to offer my opinion that his retiring at the present juncture might have effects that ought not to be hazarded; that I was not unaware of the urgency of his inclination, or of the peculiar motives he might feel to withdraw himself from a situation into which it was so well known to myself he had entered with a scrupulous reluc-

tance; that I well recollected the embarrassments under which his mind labored in deciding the question on which he had consulted me, whether it could be his duty to accept his present station after having taken a final leave of public life; and that it was particularly in my recollection that I then entertained and intimated a wish that his acceptance, which appeared to be indispensable, might be known hereafter to have been in no degree the effect of any motive, which strangers to his character might suppose, but of the severe sacrifice which his friends knew he made of his inclinations as a man to his obligations as a citizen; that I owned I had at that time contemplated, and, I believed, suggested, as the most unequivocal though not the only proof of his real motive, a voluntary return to private life as soon as the state of the government would permit; trusting that if any premature casualty should unhappily cut off the possibility of this proof, the evidence known to his friends would in some way or other be saved from oblivion, and do justice to his character; that I was not less anxious on the same point now than I was then; and if I did not conceive that reasons of a like kind to those which required him to undertake still required him to retain, for some time longer, his present station, or did not presume that the purity of his motives would be sufficiently vindicated, I should be the last of his friends to press, or even to wish, such a determination.

He then entered on a more explicit disclosure of the state of his mind; observing that he could not believe or conceive himself any wise necessary to the successful administration of the Government; that, on the contrary, he had from the beginning found himself deficient in many of the essential qualifications, owing to his inexperience in the forms of public business, his unfitness to judge of legal questions, and questions arising out of the Constitution; that others more conversant in such matters would be better able to execute the trust; that he found himself, also, in the decline of life, his health becoming sensibly more infirm, and perhaps his faculties also; that the fatigues and disagreeableness of his situation were in fact scarcely tolerable to him; that he only uttered his real sentiments when he

declared that his inclination would lead him rather to go to his farm, take his spade in his hand, and work for his bread, than remain in his present situation; that it was evident, moreover, that a spirit of party in the Government was becoming a fresh source of difficulty, and he was afraid was dividing some (alluding to the Secretary of State and Secretary of the Treasury) more particularly connected with him in the administration; that there were discontents among the people which were also shewing themselves more and more, and that although the various attacks against public men and measures had not in general been pointed at him, yet, in some instances, it had been visible that he was the indirect object, and it was probable the evidence would grow stronger and stronger that his return to private life was consistent with every public consideration, and, consequently, that he was justified in giving way to his inclination for it.

I was led by this explanation to remark to him, that however novel or difficult the business might have been to him, it could not be doubted that, with the aid of the official opinions and informations within his command, his judgment must have been as competent in all cases as that of any one who could have been put in his place, and, in many cases, certainly more so; that in the great point of conciliating and uniting all parties under a Government which had excited such violent controversies and divisions, it was well known that his services had been in a manner essential; that with respect to the spirit of party that was taking place under the operations of the Government, I was sensible of its existence, but considered that as an argument for his remaining, rather than retiring, until the public opinion, the character of the Government, and the course of its administration, should be better decided, which could not fail to happen in a short time, especially under his auspices; that the existing parties did not appear to be so formidable to the Government as some had represented; that in one party there might be a few who, retaining their original disaffection to the Government, might still wish to destroy it, but that they would lose their weight with their associates by betraying any such hostile pur-

poses; that although it was pretty certain that the other were, in general, unfriendly to republican Government, and probably aimed at a gradual approximation of ours to a mixed monarchy, yet the public sentiment was so strongly opposed to their views, and so rapidly manifesting itself, that the party could not long be expected to retain a dangerous influence; that it might reasonably be hoped, therefore, that the conciliating influence of a temperate and wise administration would, before another term of four years should run out, give such a tone and firmness to the Government as would secure it against danger from either of these descriptions of enemies; that although I would not allow myself to believe but that the Government would be safely administered by any successor elected by the people, yet it was not to be denied, that in the present unsettled condition of our young Government, it was to be feared that no successor would answer all the purposes to be expected from the continuance of the present chief magistrate; that the option evidently lay between a few characters; Mr. Adams, Mr. Jay, and Mr. Jefferson, were most likely to be brought into view; that with respect to Mr. Jefferson, his extreme repugnance to public life, and anxiety to exchange it for his farm and his philosophy, made it doubtful with his friends whether it would be possible to obtain his own consent; and if obtained, whether local prejudices in the Northern States, with the views of Pennsylvania in relation to the seat of Government, would not be a bar to his appointment. With respect to Mr. Adams, his monarchical principles, which he had not concealed, with his late conduct on the representation bill, had produced such a settled dislike among republicans every where, and particularly in the Southern States, that he seemed to be out of the question. It would not be in the power of those who might be friendly to his private character and willing to trust him in a public one, notwithstanding his political principles, to make head against the torrent. With respect to Mr. Jay, his election would be extremely dissatisfactory on several accounts. By many he was believed to entertain the same obnoxious principles with Mr. Adams, and at the same time would be less open, and therefore

more successful in propagating them. By others, (a pretty numerous class,) he was disliked and distrusted, as being thought to have espoused the claims of British creditors at the expense of the reasonable pretensions of his fellow-citizens in debt to them. Among the Western people, to whom his negotiations for ceding the Mississippi to Spain were generally known, he was considered as their most dangerous enemy, and held in peculiar distrust and disesteem. In this state of our prospects, which was rendered more striking by a variety of temporary circumstances, I could not forbear thinking that although his retirement might not be fatal to the public good, yet a postponement of it was another sacrifice exacted by his patriotism.

Without appearing to be any wise satisfied with what I had urged, he turned the conversation to other subjects; and when I was withdrawing repeated his request that I would think of the points he had mentioned to me, and let him have my ideas on them before the adjournment. I told him I would do so, but still hoped his decision on the main question would supersede for the present all such incidental questions.

WEDNESDAY EVENING, May 9, 1792.

Understanding that the President was to set out the ensuing morning for Mount Vernon, I called on him to let him know that, as far as I had formed an opinion on the subject he had mentioned to me, it was in favor of a direct address of notification to the public, in time for its proper effect on the election, which I thought might be put into such a form as would avoid every appearance of presumption or indelicacy, and seemed to be absolutely required by his situation. I observed that no other mode deserving consideration had occurred, except the one he had thought of and rejected, which seemed to me liable to the objections that had weighed with him. I added, that if on farther reflection I should view the subject in any new lights, I would make it the subject of a letter, though I retained my hopes that it would not yet be necessary for him to come to any opinion on it. He begged that I would do so, and also suggest any matters that might occur as proper to be included

in what he might say to Congress at the opening of their next session; passing over the idea of his relinquishing his purpose of retiring in a manner that did not indicate the slightest assent to it.

FRIDAY, May 25, 1792.

I met the President on the road returning from Mount Vernon to Philadelphia, when he handed me the letter dated at the latter place on the 20th of May, the copy of the answer to which on the 21st of June is annexed.

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TO MR. JEFFERSON.

ORANGE, June 12th, 1792.

MY DEAR SIR,—Since I got to the end of my journey I have been without an opportunity of dropping you a line, and this is written merely to be ready for the first casual conveyance to Fredericksburg.

I received yesterday your two favors, No. 1 and 2. The Gazettes, under a preceding cover, had come to hand some days before. Your answer to Hammond has, on the whole, got triumphantly through the ordeal.\* It is certainly not materially injured, though, perhaps, a little defaced, by some of the criticisms to which you have yielded. The points on which you did not relax appear to me to be fully vindicated; the main ones unanswerably so. The doctrine which would make the States the contracting parties could have been as little expected from that quarter as it is irreconcilable with the tenor of their confederation. The expectation of Hammond, if sincere, of final instructions by the meeting of Congress, throws light, I think, on the errand of Bond. He can scarcely calculate on the result of his Court's reconsideration of the subject within the short time allowed by five months, after deducting the double voyage.

I have letters from Kentucky down to the 8th May. Little

\* In the Cabinet.



depredations from the savages continue to be complained of. The people, however, are chiefly occupied with the approaching distribution of the new offices. Nothing is said as to their probable Gov<sup>r</sup>. Congress and the Judiciary are thought of more importance to the State. Brown can be what he pleases. Some are disposed to fix him on the Bench. None will object to his going into the Senate, if that should be his choice. Campbell and Muter are the other names in conversation for the Senate, and Brackenridge and Greenup for the House of Representatives. I have this information from a Mr. Taylor, a pretty intelligent man, engaged in their public affairs. George Nicholas specifies no names, observing that it is impossible to conjecture those that will succeed in the competitions. Among the contents of the enclosed letter is a printed copy of the Constitution of Kentucky, as finally agreed to. You can take out that or anything else for perusal, as you please, after which you will be good enough to have the letter handed in such way as you may judge best. I would not have thrown the trouble on you if any other channel had occurred.

The unpopularity of the excise has evidently increased in this quarter, owing partly to the effect of Sidney,\* who has found his way here, and partly to the unavoidable vexations it carries into the family distilleries.

The tax on newspapers is another article of grievance. It is not very well understood, but if it were, it would not be satisfactory: first, because too high; secondly, because suspected of being an insidious forerunner of something worse. I am afraid the subscriptions will soon begin to be withdrawn from the Philadelphia papers, unless some step be speedily taken to prevent it. The best that occurs seems to be to advertize that the papers will not be put into the mail, *but sent, as heretofore*, to all who shall not direct them to be put into the mail. Will you hint this to Freneau? His subscribers in this quarter seem pretty well satisfied with the degree of regularity and safety

\* Writer in the Gazette.

with which they get the papers, and highly pleased with the paper itself.

I found this country labouring under a most severe drought. There had been no rain whatever since the 18th or 20th of April. The flax and oats generally destroyed; the corn dying in the hills. No Tobacco planted, and the wheat in weak land suffering; in the strong, not injured materially; in the very strong, perhaps benefited. Eight days ago there was a very local shower here. A day or two after, a better, but still very local. Neither of them, from appearances, extended as far south as Albemarle. For several days past it has rained almost constantly, and is still raining, with the wind from North East, with every appearance of a general rain; so that the only danger now is of too much wet for the wheat, which I am happy to find has effectually supplanted tobacco in the conversation and anxieties of our crop-mongers, and is rapidly doing so in their fields.

I met the President on the road. I had no conversation with him, but he handed me a letter which he had written to me at home. Its contents are very interesting, but do not absolutely decide the problem\* which dictated yours to him.

Monroe and his lady left us on Wednesday, on their way home. He is to meet the revisors at Richmond about the 15th. I understood Mrs. M. was to be added to the family at Monticello during his absence.

Will you be so good as to cover under your next a copy of Mease's inaugural oration on the Hydrophobia? Rush sent me a copy, which had just been printed, the morning I set out, for Dr Jones. I wished to have got one for another friend, but had not time. If the bulk will permit, send two, and I will send one for the amusement of Gilmer, who, I hear, though through imperfect channels, is still in a critical situation.

Always and affectionately yours.

\* Declining a re-election.

The promised list of names is enclosed. When your Tableau of national debts and polls is made out, may I ask a copy?

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TO PRESIDENT WASHINGTON.

ORANGE, June 21, 1792.

DEAR SIR,—Having been left to myself for some days past, I have made use of the opportunity for bestowing on your letter of the 20th ult<sup>o</sup>, handed to me on the road, the attention which its important contents claimed. The questions which it presents for consideration are—1<sup>st</sup>. At what time a notification of your purpose to retire will be most convenient? 2. What mode will be most eligible? 3. Whether a valedictory address will be requisite or advisable? 4. If either, whether it would be more properly annexed to the notification, or postponed to your actual retirement?

The answer to the first question involves two points: first, the expediency of delaying the notification; secondly, the propriety of making it before the choice of electors takes place, that the people may make the choice with an eye to the circumstances under which the trust is to be executed. On the first point, the reasons for as much delay as possible are too obvious to need recital. The second, depending on the times fixed in the several States, which must be within 34 days preceding the first Wednesday in December, requires that the notification should be in time to pervade every part of the Union by the beginning of November. Allowing six weeks for this purpose, the middle of September, or perhaps a little earlier, would seem a convenient date for the act.

2. With regard to the mode, none better occurs than a simple publication in the newspapers. If it were proper to address it through the medium of the general Legislature, there will be no opportunity. Nor does the change of situation seem to admit a recurrence to the State governments, which were the channels used for the former valedictory address. A direct address to the people, who are your only constituents, can be made, I

think, with most propriety, through the independent channel of the press, through which they are, as a constituent Body, usually addressed.

3. On the third question, I think there can be no doubt that such an address is rendered *proper* in itself by the peculiarity and importance of the circumstances which mark your situation, and *advisable* by the salutary and operative lessons of which it may be made the vehicle. The precedent at your military exit might also subject an omission now to conjectures and interpretations which it would not be well to leave room for.

4. The remaining question is less easily decided. Advantages and objections lie on both sides of the alternative. The occasion on which you are *necessarily* addressing the people evidently introduces, most easily and most delicately, any *voluntary* observations that are meditated. In another view, a farewell address before the final moment of departure is liable to the appearance of being premature and awkward. On the opposite side of the alternative, however, a postponement will beget a dryness and an abridgment in the first address little corresponding with the feelings which the occasion would naturally produce both in the author and the objects of it; and though not liable to the above objection, would require a resumption of the subject apparently more forced, and on which the impressions having been anticipated and familiarized, and the public mind diverted, perhaps, to other scenes, a second address would be received with less sensibility and effect than if incorporated with the impressions incident to the original one. It is possible, too, that, previous to the close of the term, circumstances might intervene in relation to public affairs, or the succession to the Presidency, which would be more embarrassing, if existing at the time of a valedictory appeal to the public, than if unknown at the time of that delicate measure.

On the whole, my judgment leans to the propriety of blending the acts together; and the more so, as the crisis which will terminate your public career will still afford an opportunity, if any immediate contingency should call for a supplement to your farewell observations. But as more correct views of the

subject may produce a different result in your mind, I have endeavored to fit the draught enclosed to either determination. You will readily observe that in executing it I have arrived at that plainness and modesty of language which you had in view, and which, indeed, are so peculiarly becoming the character and the occasion; and that I have had little more to do as to the matter than to follow the very just and comprehensive outline which you had sketched. I flatter myself, however, that in everything which has depended on me, much improvement will be made before so interesting a paper shall have taken its last form.

Having thus, sir, complied with your wishes, by proceeding on a supposition that the idea of retiring from public life is to be carried into execution, I must now gratify my own by hoping that a reconsideration of the measure, in all its circumstances and consequences, will have produced an acquiescence in one more sacrifice, severe as it may be, to the desires and interests of your country. I forbear to enter into the arguments which plead for it in my mind, because it would be only repeating what I have already taken the liberty of fully explaining. But I could not conclude such a letter as the present without a repetition of my ardent wishes and hopes that our country may not, at this important conjuncture, be deprived of the inestimable advantage of having you at the head of its counsels.

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[*Draught enclosed in the above.*]

The period which will close the appointment with which my fellow-citizens have honored me being not very distant, and the time actually arrived at which their thoughts must be designating the citizen who is to administer the Executive Government of the U. S. during the ensuing term, it may be requisite to a more distinct expression of the public voice that I should prize such of my fellow-citizens as may retain their partiality towards me, that I am not to be numbered among those out of whom a choice is to be made.

I beg them to be assured that the resolution which dictates

this intimation has not been taken without the strictest regard to the relation which, as a dutiful citizen, I bear to my country; and that in withdrawing that tender of my service which silence in my situation might imply, I am not influenced by the smallest deficiency of zeal for its future interests, or of grateful respect for its past kindness, but by the fullest persuasion that such a step is compatible with both.

The impressions under which I entered on the present arduous trust were explained on the proper occasion. In discharge of this trust, I can only say that I have contributed towards the organization and administration of the Government the best exertions of which a very fallible judgment was capable. For any errors which may have flowed from this source, I feel all the regret which an anxiety for the public good can excite; not without the double consolation, however, arising from a consciousness of their being involuntary, and an experience of the candor which will interpret them. If there were any circumstances which could give value to my inferior qualifications for the trust, these circumstances must have been temporary. In this light was the undertaking viewed when I ventured upon it. Being, moreover, still farther advanced into the decline of life, I am every day more sensible that the increasing weight of years renders the private walks of it in the shade of retirement as necessary as they will be acceptable to me. May I be allowed to add that it will be among the highest, as well as the purest enjoyments that can sweeten the remnant of my days, to partake in a private station, in the midst of my fellow-citizens, of that benign influence of good laws under a free Government which has been the ultimate object of all our wishes, and in which I confide as the happy reward of our cares and labors? May I be allowed further to add, as a consideration far more important, that an early example of rotation in an office of so high and delicate a nature may equally accord with the republican spirit of our Constitution, and the ideas of liberty and safety entertained by the people?

(If a farewell address is to be added at the expiration of the term, the following paragraph may conclude the present:)

Under these circumstances, a return to my private station, according to the purpose with which I quitted it, is the part which duty as well as inclination assigns me. In executing it, I shall carry with me every tender recollection which gratitude to my fellow-citizens can awaken, and a sensibility to the permanent happiness of my country that will render it the object of my unceasing vows and most fervent supplications.

(Should no further address be intended, the preceding clause may be omitted, and the present address proceed as follows:)

In contemplating the moment at which the curtain is to drop forever on the public scenes of my life, my sensations anticipate, and do not permit me to suspend, the deep acknowledgments required by that debt of gratitude which I owe to my beloved country for the many honors it has conferred on me, for the distinguished confidence it has reposed in me, and for the opportunities I have thus enjoyed of testifying my inviolable attachment by the most stedfast services which my faculties could render. All the returns I have now to make will be in those vows which I shall carry with me to my retirement and to my grave, that Heaven may continue to favor the people of the United States with the choicest tokens of its beneficence; that their union and brotherly affection may be perpetual; that the free Constitution, which is the work of their own hands, may be sacredly maintained; that its administration in every Department may be stamped with wisdom and with virtue, and that this character may be ensured to it by that watchfulness over public servants and public measures which, on one hand, will be necessary to prevent or correct a degeneracy, and that forbearance, on the other, from unfounded or indiscriminate jealousies, which would deprive the public of the best services by depriving a conscious integrity of one of the noblest incitements to perform them; that, in fine, the happiness of the people of America under the auspices of liberty may be made complete, by so careful a preservation and so prudent a use of this blessing as will acquire them the glorious satisfaction of recommending it to the affection, the praise, and the adoption, of every nation which is yet a stranger to it.

And may we not dwell with well-grounded hopes on this flattering prospect, when we reflect on the many ties by which the people of America are bound together, and the many proofs they have given of an enlightened judgment and a magnanimous patriotism?

We may all be considered as the children of one common country. We have all been embarked in one common cause. We have all had our share in common sufferings and common successes. The portion of the earth allotted for the theatre of our fortunes fulfils our most sanguine desires. All its essential interests are the same; whilst the diversities arising from climate, from soil, and from other local and lesser peculiarities, will naturally form a mutual relation of the parts that must give to the whole a more entire independence than has, perhaps, fallen to the lot of any other nation.

To confirm these motives to an affectionate and permanent union, and to secure the great objects of it, we have established a common Government, which, being free in its principles, being founded in our own choice, being intended as the guardian of our common rights and the patron of our common interests, and wisely containing within itself a provision for its own amendment as experience may point out its errors, seems to promise everything that can be expected from such an institution; and if supported by wise counsels, by virtuous conduct, and by mutual and friendly allowances, must approach as near to perfection as any human work can aspire, and nearer than any which the annals of mankind have recorded.

With these wishes and hopes I shall make my exit from civil life, and I have taken the same liberty of expressing them which I formerly used in offering the sentiments which were suggested by my exit from military life. If, in either instance, I have presumed more than I ought on the indulgence of my fellow-citizens, they will be too generous to ascribe it to any other cause than the extreme solicitude which I am bound to feel, and which I can never cease to feel, for their liberty, their prosperity, and their happiness.



TO EDMUND RANDOLPH.

ORANGE, Sept<sup>r</sup> 13, 1792.

MY DEAR FRIEND,—Your favor of the 12th ultimo having arrived during an excursion into Albemarle, I did not receive it till my return on yesterday. I lose not a moment in thanking you for it, particularly for the very friendly paragraph in the publication in Fenno's paper. As I do not get his paper here, it was by accident I first saw this extraordinary manœuvre of calumny, the quarter, the motive, and the object of which speak of themselves. As it respects Mr. Jefferson, I have no doubt that it will be of service both to him and the public, if it should lead to such an investigation of his political opinions and character as may be expected. With respect to myself, the consequence, in a public view, is of little account. In any view, there could not have been a charge founded on a grosser perversion of facts, and, consequently, against which I could feel myself more invulnerable.

That I wished and recommended Mr. Freneau to be appointed to his present Clerkship is certain. But the Department of State was not the only, nor, as I recollect, the first one, to which I mentioned his name and character. I was governed in these recommendations by an acquaintance of long standing, by a respect for his talents, and by a knowledge of his merit and sufferings in the course of the Revolution. Had I been less abstemious in my practice from solicitations in behalf of my friends, I should probably have been more early in thinking of Mr. F. The truth is, that my application, when made, did not originate with myself. It was suggested by another gentleman,\* who could feel no motive but a disposition to patronize merit, and who wished me to co-operate with him. That, with others of Mr. Freneau's particular acquaintances, I wished and advised him to establish a press at Philadelphia, instead of one meditated by him in New Jersey, is also certain. I advised the change because I thought his interest would be advanced by it,

\* General H. Lee.

and because, as a friend, I was desirous that his interest should be advanced. This was my primary and governing motive. That, as a consequential one, I entertained hopes that a free paper meant for general circulation, and edited by a man of genius of republican principles, and a friend to the Constitution, would be some antidote to the doctrines and discourses circulated in favour of Monarchy and Aristocracy, and would be an acceptable vehicle of public information in many places not sufficiently supplied with it, this, also, is a certain truth; but it is a truth which I never could be tempted to conceal, or wish to be concealed. If there be a temptation in the case, it would be to make a merit of it.

But that the establishment of Mr. Freneau's press was wished in order to sap the Constitution, and that I forwarded the measure, or that my agency negotiated it, by an illicit or improper connection between the functions of a translating clerk in a public Office and those of an Editor of a Gazette, these are charges which ought to be as impotent as they are malicious. The first is surely incredible, if any charge could be so; and the second is, I hope, at least improbable, and not to be credited, until unequivocal proof shall be substituted for anonymous and virulent assertions.

When I first saw the publication, I was half disposed to meet it with a note to the printer, with my name subscribed. I was thrown into suspense, however, by reflecting that as I was not named, and was only incidentally brought into view, such a step might be precipitate, if not improper, in case the principal should not concur in such a mode of vindication. 2. That I was not enough acquainted with the turn the thing might take, and the light in which it might be viewed on the spot. 3. That in a case the least doubtful, prudence would not rush into the newspapers. These considerations have been since sanctioned by the opinion of two or three judicious and neutral friends whom I have consulted. The part finally proper, however, remains to be decided, and on that I shall always be thankful for the ideas of my friends most in a condition to judge.

TO EDMUND PENDLETON.

PHILADELPHIA, NOV<sup>r</sup> 16, 1792.

DEAR SIR,—I make use of the opportunity afforded by the return of Col. Hoomes to inclose a parcel of the late newspapers, which may contain some things not in the other papers you get. You will find in them all the particulars known here concerning the affairs of France, and sketches of the business as yet brought before Congress. The President's speech and the two answers are, I believe, also in the collection. The passages relating to the excise are particularly interesting in several respects. The answer of the House of Representatives on that subject is thought by some of us to have been carried too far. That laws in force should be supported is right, and ought to be asserted; but to say, first, that a free Government should listen to representations with a disposition to give redress where proper, and then to prejudge them by saying that the progress of contentment is as obvious as it is *rational*, does not appear very consistent. And as little prudent was it, perhaps, to add, what will be regarded as an insinuation, that the opposition to the excise proceeds from a selfish and unjust wish to avoid a common share of burden; an insinuation not generally true, and more likely to inflame than heal the wound. We are anxious for the arrival of Col. Taylor. I hear with much pleasure from Col. H. of your good health. Wishing a continuance of it and every other blessing, I remain, dear sir, your affec<sup>to</sup> friend.

P. S. I throw in for your amusement an anonymous pamphlet, which makes pretty free with the characters of several of your friends. In what respects myself, every thing happens to be notoriously false which I would wish not to be true.

TO EDMUND PENDLETON.

PHILADELPHIA, Decr 6, 1792.

DEAR SIR,—I am just favored with yours of the 28th ult. I wish I could remove your anxiety for the French. The last accounts are so imperfect and contradictory that it is difficult to make anything of them. They come, also, through the Brussels and English channels, which increases the uncertainty. It appears, on the whole, that the combination against the revolution, and particularly against their new Republic, is extremely formidable, and that there is still greater danger within from the follies and barbarities which prevail in Paris. On the other hand, it seems tolerably clear that the nation is united against Royalty, and well disposed to second the Government in the means of defence. At this distance it is impossible to appreciate particular measures, or foresee the turn which things may finally take.

The newspaper tax noticed by the President has been referred to a Committee, but no report has yet been made. It is of great importance that some change should take place that will remove the obstruction which has been thrown in the way of information to the people. In all Governments the public censorship is necessary, in order to prevent abuses. In such an one as ours, where the members are so far removed from the eye of their constituents, an easy and prompt circulation of public proceedings is peculiarly essential.

The election of a Vice President has excited in this quarter considerable animation, and called forth comparative portraits of the political characters of Mr. Adams and Governor Clinton, the only candidates brought into the field. The former has been exhibited in all its monarchical features, and the latter in the anti-federal colors it wore in 1788. There are not sufficient data here to calculate with certainty the event of the contest. The probability is rather favorable to Mr. Adams, but not in such a degree as to prevent pretty keen apprehensions among his friends. As the opposition to him is levelled entirely against his political principles, and is made under very great

disadvantages, the extent of it, whether successful or not, will satisfy him that the people at large are not yet ripe for his system.

We are informed by the last advices from Europe that the harvest has generally been scanty, and that in England, particularly, it has suffered prodigiously from the wetness of the season. From this cause, and the general state of things abroad, a great demand on our stock is anticipated. Wheat is already up at 9s., and flour at 45s., of this currency. The rise must soon communicate itself to Virginia, and it is to be hoped the farmers will not lose the benefit of it by premature sales. We all regret the detention of Col. Taylor. I hope the cause of it has ceased, and that we shall soon have his arrival in proof of it. It is probable that Mr. Jefferson will not remain very long in his public station, but it is certain that his retirement is not to be ascribed to the newspaper calumnies which may have had that in view.

I remain, dear sir, yours, &c.

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TO EDMUND PENDLETON.

PHILADELPHIA, Dec<sup>r</sup> 10, 1792.

DEAR SIR.—As you find an amusement in our newspapers, I inclose two of the last; which, however, contain little of consequence, except a new Report from the Treasury Department. The mover of the reference which gave birth to it declared he did not mean to authorize a proposition of new taxes, and it appeared that some at least voted for the motion on that idea. You will find, however, that a different construction has been made by the head of that Department. Quere: Is not a tax on horses a *direct* tax, and therefore unconstitutional in the form proposed? Quere: How much will Virginia pay more than her share of such a tax compared with Connecticut, and the Southern States, generally, than the Eastern? Quere: Is it not rather hard that those who are to have least of the benefit should con-

stantly be saddled with most of the burden? Quere: If a new tax and a direct tax is to be encountered, is it not mockery to begin with one that is to raise forty odd thousand dollars only as a fund for sinking the debt? Quere—but there would be no end to the Queries arising out of the project.

Yours affectionately.

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TO EDMUND PENDLETON.

PHILADELPHIA, Feby 23, 1793.

DEAR SIR.—Since we had the pleasure of Col. Taylor's arrival, I have left in his better hands the trust of keeping you supplied with whatever communications might interest or amuse you. As the political scene here is, however, soon to be suspended, I cannot refuse myself the last opportunity I shall have before a dispersion of the *dramatis personæ* takes place of enjoying the pleasure I always feel in tendering my respects and affection, as well as testifying the high value I set on your correspondence.

I seize the opportunity in this case with the more avidity, as it permits me, at the same time, to tell you how much we have been charmed with the successor to Col. R. H. Lee, and to entreat your co-operation with a number of his other friends in overcoming his repugnance to his present station. His talents, during the fraction of time he has been on the federal theatre, have been of such infinite service to the republican cause, and such a terror to its adversaries, that his sudden retirement, on which he is strongly bent, ought to be regarded as a public calamity, and counterworked by all the means his friends can use. We think it essential that he should be prevailed on to prolong his stay in the Government at least through the next session, which will form a critical epoch in our political History. Much will depend on the turn our affairs will then take; and that will depend not a little on the character which Virginia, in particular, will exhibit in the National Councils. In this view, it is to

be desired that her weight of talents in one branch should correspond with her force of numbers in the other. The figure she is to make in the latter, with respect to talents, will depend on the issue of the approaching elections. We understand, in general, that there will be no scarcity of competitors; but our information is too defective for an accurate conjecture of the result. Your district has been said to abound more than any other in candidates. Mr. C., I presume, is most distinguished for parliamentary talents and activity, and on that score claims a favorable wish, if the course he would be likely to take should furnish no objection, of which those most in the knowledge of his politics are the best judges.

You will have discovered from the newspapers that a pretty interesting scrutiny has been started into the administration of the Treasury Department.\* The documents furnished shew that there has been, at least, a very blameable irregularity and secrecy in some particulars of it, and many appearances which at least require explanation. With some, suspicions are carried very far; others resolve the whole that is wrong into favoritism to the Bank, &c.; whilst the partizans of the Secretary either see nothing amiss, or are willing to ascribe everything that is so to venial, if not laudable motives.

The January Packet has just arrived at New York. Her budget is not yet fully opened to the public. The Government of England, it is said, remains firm in the saddle, notwithstanding the spurs which Mr. Paine has so vigorously applied to the people. Whether a war is to be forced with France is still uncertain, though the affirmative is most countenanced by individual opinions. The arms of France continue to maintain their reputation. She is threatened with a further trial of them by all the efforts that Austria and Prussia, at least, can make. Spain is disposed to be neutral, but would fain make the preservation of Louis a condition. You will find by the inclosed paper that his fate must ere this have been decided by an appeal to the judgment of the nation.

\* By Giles' Resolutions of 28th February.

With every sentiment of esteem and attachment, I am, dear sir, yours.

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TO THOMAS JEFFERSON.

ORANGE, April 12, 1793.

DEAR SIR,—Your favor of the 31 ult., and the preceding one without date, have been received. The refusal of Dunlap in the case you mention confirms the idea of a combined influence against the freedom of the press. If symptoms of a dangerous success in the experiment should shew themselves, it will be necessary, before it be too late, to convey to the public through the channels that remain open an explicit statement of the fact, and a proper warning of its tendency. In the mean time, it is, perhaps, best to avoid any premature denunciations that might fix wavering or timid presses on the wrong side. You say that the subject of the three millions of florins is to be revived. Have you discovered in what mode; whether through the next Congress or through the press; and if the latter, whether avowedly or anonymously? I suspect that the President may not be satisfied with the aspect under which that and other parts of the fiscal administration have been left.

As far as I can learn, the people of this country continue to be united and firm in the political sentiments expressed by their Representatives. The re-election of all who were most decided in those sentiments is among the proofs of the fact.

The only individual discontinued is the one who dissented most from his colleagues. The vote at the election stood thus: for R., 886; S., 403; W., 276. *It is said* that the singular vote on assuming the balances gave the coup de grace to his popularity. We were told at Alexandria that if the member for that district had been opposed, his election would have failed; and at Fredericksburg, that a notice of G.'s vote on the resolutions of censure had nearly turned the scale against him. I have seen and conversed with Mr. F. Walker. I think it im-



possible he can go otherwise than right. He tells me that J. Cole, and not Clay, as in the newspapers, is elected for the Halifax District. Hancock is the new member from the district adjoining Moore, and Preston for that beyond him. I fell in with Mr. Brackenridge on his way to Kentucky. He had adverted to Greenup's late vote with indignation, and dropped threats of its effect on his future pretensions.

The sympathy with the fate of Louis has found its way pretty generally into the mass of our citizens; but relating merely to the man, and not to the Monarch, and being derived from the spurious accounts in the papers of his innocence, and the blood-thirstiness of his enemies, I have not found a single instance in which a fair statement of the case has not new-modelled the sentiment. "If he was a Traitor, he ought to be punished as well as another man." This has been the language of so many plain men to me, that I am persuaded it will be found to express the universal sentiment, whenever the truth shall be made known.

Our fields continue to anticipate a luxuriant harvest. The greatest danger is apprehended from too rapid a vegetation under the present warm and moist weather. The night before last it received a small check from a smart frost. The thermometer was down at 37, and we were alarmed for the fruit. It appears, however, that no harm was done. We have at present the most plentiful prospect of every kind of it.

Will you be so good, in case an opportunity should offer, to enquire of Doctor Logan as to the ploughs he was to have made and sent to Mrs. House's, and to repay what may have been advanced for those and two or three other articles that were to be forwarded to Fredericksburg by water? I forgot to make the proper arrangements before I left Philadelphia.

Adieu. Yours affectionately.

TO THOMAS JEFFERSON.

ORANGE, May 8th, 1793.

DEAR SIR,—Your last received was of the 28 April. The receipt of all the preceding is verified by the uninterrupted dates of the Gazettes inclosed. I anxiously wish that the reception of Genet may testify what I believe to be the real affections of the people. It is the more desirable, as a seasonable plum after the bitter pills which it seems must be administered. Having neither the Treaty nor law of Nations at hand, I form no opinion as to the stipulations of the former, or the precise neutrality defined by the latter. I had always supposed that the terms of the Treaty made some sort of difference, at least as far as would consist with the Law of Nations, between France and Nations not in Treaty, particularly Great Britain. I should still doubt whether the term *impartial*, in the Proclamation, is not stronger than was necessary, if not than was proper. Peace is no doubt to be preserved at any price that honor and good faith will permit. But it is no less to be considered that the least departure from these will not only be most likely to end in the loss of peace, but is pregnant with every other evil that could happen to us. In explaining our own engagements under the Treaty with France, it would be honorable as well as just to adhere to the sense that would at the time have been put on them. The attempt to shuffle off the Treaty altogether, by quibbling on Vattel, is equally contemptible for the meanness and folly of it. If a change of Government is an absolution from public engagements, why not from those of a domestic as well as of a foreign nature; and what then becomes of public debts, &c., &c? In fact, the doctrine would perpetuate every existing Despotism, by involving in a reform of the Government a destruction of the social pact, an annihilation of property, and a compleat establishment of the state of nature. What most surprises me is, that such a proposition *should have been discussed*.

Our weather has not been favorable of late, owing more to want of sun than excess of rain. Vegetation of all sorts, even

the wheat, nevertheless continues to flourish; and the fruit having no longer anything to fear from frost, we are sure of good crops of that agreeable article.

Yours always and affectionately.

Will you send me a copy of the little pamphlet advertised under the title of an examination of the proceedings in the case of the Secretary of the Treasury?

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TO THOMAS JEFFERSON.

May 27, 1793.

DEAR SIR,—I have received your letter, with the unsealed one for Monroe, and have forwarded the latter. Your subsequent one, which I calculate to have been written on the 12th instant, came to hand two days ago. I feel for your situation, but you must bear it. Every consideration, private as well as public, requires a further sacrifice of your longings for the repose of Monticello. You must not make your final exit from public life till it will be marked with justifying circumstances which all good citizens will respect, and to which your friends can appeal. At the present crisis, what would the former think? what could the latter say? The real motives, whatever they might be, would either not be admitted, or could not be explained; and if they should be viewed as satisfactory at a future day, the intermediate effects would not be lessened, and could not be compensated. I am anxious to see what reception Genet will find in Philadelphia. I hear that the fiscal party in Alexandria was an over-match for those who wished to testify the American sentiment. George Town, it is said, repaired the omission. A public dinner was intended for him at Fredericksburg, but he passed with such rapidity that the compliment miscarried. It would not be amiss if a knowledge of this would in a proper mode get to him. I think it certain that he will be misled if he takes either the fashionable cant of the cities, or

the cold caution of the Government, for the sense of the public; and I am equally persuaded that nothing but the habit of implicit respect will save the Executive from blame, if, through the mask of neutrality, a secret Anglomany should betray itself.

I forgot, when I requested your attention to my ploughs, to ask the favor of you to pay for them, and to let me know the amount of your several advances.

Yours always and affectionately.

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TO THOMAS JEFFERSON.

ORANGE, June 13, 1793.

MY DEAR SIR,—My last was of the 27 May. It enclosed, among other things, a letter to the French Minister de l'Intérieur, in answer to one enclosing a Decree of the National Assembly. On the propriety of the answer I wished your freest judgment; and as the sending one at all may be rendered by events improper, I must request the favor of you not to forward the letter if intelligence should confirm such to be the state of things that it would be totally mal-apropos *there*. Provided it be proper there, and consequently proper in itself, I shall not trouble myself about any comments which the publication attending all such things may produce here. The letter preceeding my last, as well as the last, contained some other papers which I wish to know have been received.

Your two last favors were of May 27 and June 2. The latter confirms the apostasy of Dumouriez, but relieves us from the more alarming account of his being supported in it by the army. Still, however, much is to be dreaded from the general posture of things. Should they take a turn decidedly wrong, I fear little regard will be paid to the limited object avowed by the Austrian general in his first proclamation. In fact, if the plan of Dumouriez had succeeded, it is probable that, under the clause of the proclamation relating to an amendment of imperfections in the Constitution of 1791, the form of the national

sanction would have been obtained, as in the Restoration of Charles II, to whatever establishment military despotism might please to dictate. The only hope of France, next to the success of her own efforts, seems to lie in the number and discordant views of her combined enemies.

I observe that the newspapers continue to criticise the President's proclamation, and I find that some of the criticisms excite the attention of dispassionate and judicious individuals here. I have heard it remarked by such, with some surprise, that the President should have declared the United States to be neutral in the unqualified terms used, when we were so notoriously and unequivocally under *eventual engagements* to defend the American possessions of France. I have heard it remarked, also, that the impartiality enjoined on the people was as little reconcileable with their moral obligations as the unconditional neutrality proclaimed by the Government is with the express articles of the Treaty. It has been asked, also, whether the authority of the Executive extended by any part of the Constitution to a declaration of the *Disposition* of the United States on the subject of war and peace? I have been mortified that on these points I could offer no bona fide explanations that ought to be satisfactory. On the last point, I must own my surprise that such a prerogative should have been exercised. Perhaps I may have not attended to some parts of the Constitution with sufficient care, or may have misapprehended its meaning. But, as I have always supposed and still conceive, a proclamation on the subject could not properly go beyond a declaration of the fact that the United States were at war or peace, and an injunction of a suitable conduct on the citizens. The right to decide the question whether the duty and interest of the United States require war or peace under any given circumstances, and whether their disposition be towards the one or the other, seems to be essentially and exclusively involved in the right vested in the Legislature of declaring war in time of peace, and in the President and Senate of making peace in time of war. Did no such view of the subject present itself in the discussions of the Cabinet? I am ex-

tremely afraid that the President may not be sufficiently aware of the snares that may be laid for his good intentions by men whose politics at bottom are very different from his own. An assumption of prerogatives not clearly found in the Constitution, and having the appearance of being copied from a monarchical model, will beget animadversion equally mortifying to him and disadvantageous to the Government. Whilst animadversions of this sort can be plausibly ascribed to the spirit of party, the force of them may not be felt. But all his real friends will be anxious that his public conduct may bear the strictest scrutiny of future times, as well as of the present day; and all such friends of the Constitution would be doubly pained at infractions of it under auspices that may consecrate the evil till it be incurable.

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The great danger of misconstruing the sentiment of Virginia with regard to liberty and France is from the heretical tone of conversation in the Towns on the post roads. The voice of the country is universally and warmly right. If the popular disposition could be collected and carried into effect, a most important use might be made of it in obtaining contributions of the necessaries called for by the danger of famine in France. Unfortunately, the disaffection of the Towns, which alone could give effect to a plan for the purpose, locks up the public gratitude and beneficence.

Our fine prospects in the wheat fields have been severely injured by the weather for some time past. A warm and moist spring had pushed the wheat into rather a luxuriant state. It had got safe into the head, however, and with tolerable weather would have ripened into a most exuberant crop. Just as the grain was in a milky state the weather became wetter than ever, and has continued raining or cloudy almost constantly since. This has brought on a little of the rust, and pretty universally in this quarter a decay of the ear called the Rot. Should the weather be ever so favorable henceforward, a considerable proportion will be lost; and if unfavorable, the loss may be almost entire. We are at this moment both excessively

wet and hot. The forwardest wheat is turning fast, and may be nearly safe. The generality is not sufficiently advanced to be out of danger of future, or beyond the effect of past causes.

The Kentucky coffee trees in this neighborhood are too young to bear for some years. I will do all I can to get the seed for Bartram from Kentucky as soon as possible.

Adieu.

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TO THOMAS JEFFERSON.

ORANGE, June 17, 1793.

MY DEAR SIR,—Your favor of the 9th I received late last night by a messenger from the neighbourhood of Fredericksburg, who returns early this morning. I have therefore not had time to read the papers inclosed in it, and even the letter itself but hastily. Its silence as to France is a cordial to the fears we have been kept in by the newspapers and reports here, of hearing every moment of her final catastrophe. If the army had stood by Dumouriez's treason, as was the uncontradicted idea for a time, scarce a possibility seemed to remain of any other result. I fell in two days ago with French Strother, who was returning circuitously from Richmond. He had seen W. C. Nicholas on his way, and spoke of him as among the decided friends of the French cause. In general, I discovered that his testimony and conviction corroborated the fact that the people of this Country, where you cannot trace the causes of particular exceptions, are unanimous and explicit in their sympathy with the Revolution. He was in Richmond during the session of the Court of the United States, and heard the opinions of the Judges on the subject of the British debts. Jay's, he says, was, that the depreciated payments into the Treasury discharged the debtor, but leaves the State liable to the creditor. It would be a hard tax on those who have suffered themselves by the depreciation to bear such a burden. It would be severely felt by those who put money into the Treasury on loan, and have received certifi-

cates by the scale, and those again further reduced by the modifications of the assumption.

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TO THOMAS JEFFERSON.

ORANGE, June 19, 1793.

DEAR SIR,— \* \* \* \* \*

Every Gazette I see (except that of the United States) exhibits a spirit of criticism on the Anglified complexion charged on the Executive politics. I regret extremely the position into which the President has been thrown. The unpopular cause of Anglomania is openly laying claim to him. His enemies, masking themselves under the popular cause of France, are playing off the most tremendous batteries on him. The proclamation was, in truth, a most unfortunate error. It wounds the national honor, by seeming to disregard the stipulated duties to France. It wounds the popular feelings, by a seeming indifference to the cause of liberty. And it seems to violate the forms and spirit of the Constitution, by making the Executive Magistrate the organ of the disposition, the duty, and the interest of the nation, in relation to war and peace—subjects appropriated to other departments of the Government. It is mortifying to the real friends of the President that his fame and his influence should have been unnecessarily made to depend in any degree on political events in a foreign quarter of the Globe; and particularly so that he should have anything to apprehend from the success of liberty in another country, since he owes his pre-eminence to the success of it in his own. If France triumphs, the ill-fated proclamation will be a millstone, which would sink any other character, and will force a struggle even on his.

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TO THOMAS JEFFERSON.

June 29, 1793.

MY DEAR SIR,—

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My last was of the 19th. I have since seen several of the National Gazettes, which continue to teem with animadversions on the Proclamation. My opinion of it was expressed in my last. I foresee that a communication of it will make a part of the speech to the next Congress, and that it will bring on some embarrassments. Much will depend on events in Europe; and it is to be regretted that the popularity of the President or the policy of our Government should ever be staked on such contingencies. I observe that our vessels are frequently and insolently seized and searched for French goods. Is not this complained of by our own people as a breach of the *modern* law of nations; and whilst British goods are protected by the neutrality of our bottoms, will not remonstrances come from France on the subject?

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TO THOMAS JEFFERSON.

July 18, 1793.

DEAR SIR,—The season of harvest having suspended all intercourse with Fredericksburg, your favor of the 7th instant has but just been received. That of the 29th ult. came to hand at the same time. The preceding one of the 23d would have been acknowledged before, but for the cause above mentioned. The present is the first opportunity, and, like several others, leaves me but a moment to prepare for it.

I have read over the subject which you recommend to my attention. It excites equally surprise and indignation, and ought certainly to be taken notice of by some one who can do it justice. In my present disposition, which is perfectly alienated from such things, and in my present situation, which deprives me of some material facts and many important lights, the task

would be in bad hands if I were otherwise better qualified for it. I am in hopes of finding that some one else has undertaken it. In the mean time, I will feel my own pulse, and if nothing appears, may possibly try to supply the omission.

Return my thanks to Dr. Logan for the pamphlet, and also for the ploughs arrived at Fredericksburg, though, by a singular succession of errors and accidents, they are still on the road between this and that. Your account of Genet is dreadful. He must be brought right, if possible. His folly will otherwise do mischief which no wisdom can repair. Is there no one through whom he can be effectually counselled? De la Forest is said to be able, and if himself rightly disposed, as I have understood him to be, might, perhaps, be of great use. The result of the Harvest is perhaps less favorable than I once supposed. I hope, however, the crop of wheat, as to quantity at least, will be tolerable. Of the quality, I have great apprehensions. The season for getting it in was as bad as was possible. Every other article of our cultivation is prosperous, and will help to make amends if the rest of the year be favorable. The corn is particularly luxuriant in all quarters.

Yours always and affec<sup>y</sup>.

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TO THOMAS JEFFERSON.

July 22, 1793.

DEAR SIR,—My last was on the 18th, and acknowledged yours of the 30th Ult. and 7th instant. I had not then time to mention that W. C. Nicholas passed an evening with me on his way home from his brother's, where he had met Edmund Randolph on his return to Philadelphia. From his conversation, his sentiments are right and firm on the French Revolution, and in other respects I discovered no symptoms of heresy. He spoke particularly and emphatically of the unquestionable unanimity of the Country in favor of the cause of France. I have no doubt that he held this language to every one, and, consequently, that

the impressions depending on him have been rightly made. I could not but infer from all that he said with regard to Ed. Randolph that he considered the sentiments of him on French affairs as similar to his own, and to such as were expressed by himself. Some allowance, however, in all such conversations, must be made for the politeness or policy of respecting the known sentiments of the party to which they are addressed or communicated. He had seen the first part of Hamilton's publication,\* and spoke of it as from that quarter. He expressed some surprise at the doctrines and cabinet efforts of the author, as he had learnt them from E. Randolph, and seemed unable to account for some things without suspecting Hamilton of a secret design to commit and sacrifice the President. His ideas on this subject must have grown out of the language of E. Randolph, if not actually copied from it.

I have read over, with some attention, the *printed* papers you inclosed, and have made notes towards a discussion of the subject. I find myself, however, under some difficulties: first, from my not knowing how far concessions have been made on particular points behind the curtain. 2<sup>dly</sup>. From my not knowing how far the President considers himself as actually committed with respect to some doctrines. 3<sup>dly</sup>. From the want of some lights from the law of nations as applicable to the construction of the Treaty. 4<sup>th</sup>. From my ignorance of some material facts, such as whether any call was made by Great Britain, or any other Belligerent power, for the intentions of the United States prior to the proclamation; whether France was heard on the subject of her constructions and pretensions under the Treaty; whether the Executive had before them any authentic documents, or entered into any discussions on the question whether the war between France and Great Britain is offensive or defensive, &c.

I do not mean that all such information ought to be brought into the controversy, though some of it is necessary, and some more might be used to advantage. But all or most of it seems proper, in order to avoid vulnerable assertions or suppositions,

\* *Pacificus*.

which might give occasion to triumphant replies. If an answer to the publication be undertaken, it ought to be both a solid and a prudent one. None but intelligent readers will enter into such a controversy, and to their minds it ought principally to be accommodated. If you can lay your hands on the explanatory publication of the real object of the Proclamation referred to in your last, or the preceding one, send it to me. The one I had is no longer in my hands. I expect to-day to receive your letter next in date to the 7th.

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TO THOMAS JEFFERSON.

July 30, 1793.

DEAR SIR,—My last was of the 22d instant. I have since received yours covering the paper now returned, that covering the report of the Commissioners of accounts between the United States and the particular States, and that of the 21st instant. The intermediate one of the 14th was left by mistake in a secure place by the person who was to bring it up from Fredericksburg, and is not yet arrived. The delay has been inconvenient, as it deprives me of part of the publication, which I wish to see in all its parts before I formed a regular view of any. As I intimated in my last, I have forced myself into the task of a reply. I can truly say I find it the most grating one I ever experienced; and the more so, as I feel at every step I take the want of counsel on some points of delicacy, as well as of information as to sundry matters of fact. I shall be still more sensible of the latter want when I get to the attack on French proceedings, and perhaps to the last topic proposed by the writer, if I ever do get to it. As yet I have but roughly and partially gone over the first; and being obliged to proceed in scraps of time, with a distaste to the subject, and a distressing lassitude from the excessive and continued heat of the season, I cannot say when I shall finish even that. One thing that particularly vexes me is, that I fore-know, from the prolixity and pertinacity of the writer, that the business will not be terminated by a single fire, and, of course,

that I must return to the charge in order to prevent a triumph without a victory.

Do you know what is the idea of France with regard to the defensive quality of the guaranty, and of the criterion between offensive and defensive war, which I find differently defined by different jurists; also, what are the ideas of the President on these points? I could lay my course with more advantage through some other parts of the subject if I could also know how far he considers the Proclamation as expressing a neutrality, in the sense given to that term, or how far he approves the vindication of it on that ground.

I am sorry to find the journey to Virginia, from which useful lessons were hoped, ending in a confirmation of errors. I can only account for it by supposing the public sentiment to have been collected from tainted sources, which ought to have suggested to a cautious and unbiassed mind the danger of confiding in them. The body of the people are unquestionably attached to the Union, and friendly to the Constitution; but that they have no dissatisfaction at the measures and spirit of the Government, I consider as notoriously untrue. I am the more surprised at the misconception of our Friend, as the two latest sources consulted, the two brothers, I mean, are understood to be both of them rightly disposed, as well as correctly informed.

I have got my ploughs at last. They are fine ones, and much admired. Repeat my thanks to Dr Logan, if you have an opportunity and think of it. The *patent plough* is worth your looking at, if you should visit his farm. You will see your theory of a mould-board more nearly realized than in any other instance, and with the advantage of having the iron wing, which in common bar shares or in great lies useless under the wood, turned up into the sweep of the board, and relieving it from the brunt of the friction. By fixing the colter, which is detached, to the point of the share, it will, I think, be nearly complete. I propose to have one so constructed. The detached form may answer best in old, clear ground, but will not stand the shocks of our rough and rooty land, especially in the hands of our ploughmen.

Little wheat having been yet tried in bread, I cannot say how the quality will turn out. The more I see and hear of it, the more I fear it will be worse than was at first supposed. The corn suffers now for want of rain, but appearances as to that article are, on the whole, very flattering. The worst effect of the dry weather at present felt is the extreme hardness of the earth, which makes ploughing, particularly in fallow land, but barely possible. So many heavy rains on ground wet for six months, succeeded by the present hot spell, has almost beat it and baked it into brick.

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TO THOMAS JEFFERSON.

August 5, 1793.

DEAR SIR,—Your account of the ticklish situation with respect to Genet in the 14<sup>th</sup> is truly distressing. His folly would almost beget suspicions of the worst sort. The consequences you point out, in case matters come to an extremity, are so certain and obvious, that it is hardly conceivable he can be blind to them. Something must be done, if possible, to get him into a better train. I find by the paper of the 27, that Pacificus has entered, and I suppose closed, his last topic. I think it a feeble defence of one important point I am striking at, viz: the making a declaration, *in his sense of it*, before the arrival of Genet. I argue that the act does not import a decision against the *cas. fed.*, from the manifest impropriety of doing so, on the ground that France was the aggressor in *every* war, without, at least, waiting for evidence as to the question of fact who made the first attack, admitting, for the sake of argument, that to be the intention.

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TO THOMAS JEFFERSON.

Aug. 11th, 1793.

DEAR SIR,—Yours of August 3d has just come to hand. All the preceding have been acknowledged. I am extremely mortified, in looking for the Key to the Cypher, to find that I left it in Philadelphia. You must therefore repeat anything that may be of use still to be known, particularly anything that may relate to the time of your leaving Philadelphia, which I wish to know as long as possible before it takes place. The task on which you have put me must be abridged, so as not to go beyond that period. You will see that the first topic is not yet completed. I hope the 2<sup>d</sup> and 3<sup>d</sup>, to wit, the meaning of the Treaty and the obligations of gratitude, will be less essential. The former is particularly delicate, and tho' I think it may be put in a light that would reflect ignominy on the author of P., yet I had rather not meddle with the subject, if it could be avoided.

I cannot say when I shall be able to take up those two parts of the job. Just as I was embarking in the general subject, I received from the reputed Author of Franklin a large pamphlet, written by him against the fiscal system, particularly the Bank, which I could not but attend to. It is put on a footing that requires me to communicate personally with Monroe, whom I ought to have seen before this, as the publication of the work is to be contrived for the Author. It really has merit, always for its ingenuity, generally for its solidity, and is enriched with many fine strokes of imagination, and a continued vein of pleasantry and keen satire, that will sting deeply. I have received a letter from the Author, wishing to hear from me. I must, therefore, take a ride as far as Charlottesville, as soon as I make out the next packet for you, and suspend the residue of the business till I return. I shall endeavour in my absence to fulfil a promise to Wilson Nicholas, which will lengthen the suspension. I forward to F. a copy of the little thing of L<sup>d</sup> Ch.; the last sentence is struck out as not necessary, and which may, perhaps, wound too indiscriminately certain characters not at present interested in supporting public corruptions.

The paper for J. F. could not otherwise get to him than with your aid. You must therefore take the trouble of having it handed into the Post Office, whence the penny post will take it, unless you can do it at some shorter hand. I wish you would look over what is said critically, and if you think there be any thing of importance wrong, or that may do more harm than good, that you will either erase it, where that will not break the sense, or arrest the whole till I can make the correction. Delay, I know, is bad; but vulnerable parts that would be seized for victories and triumphs would be worse. I beg you, also, to attend particularly to those passages slightly marked with a pencil: the first, the declaration of the principles and sentiments of the Author; the 2<sup>d</sup>, beginning with, "Writers such as Locke and Montesquieu," &c., to the pencil mark in the ¶. 3<sup>d</sup>. The quotation from the Federalist. If you think the first had better be omitted, it can come out without leaving the least gap; so can the 2<sup>d</sup>. My doubts as to that proceed from the danger of turning the controversy too much into the wilderness of books. I use Montesquieu, also, from memory, tho', I believe, without inaccuracy. The 3<sup>d</sup> can also come out without affecting the piece; and I wish you to erase it, if you think the most scrupulous delicacy, conjecturing the Author, could disapprove it. One N<sup>o</sup>. more, or two short Nos., will close the first topic and supersede the last. They will be sent as soon as finished and copied. These would have been sent somewhat sooner, but for the delay caused by the last circumstance.

The drought has done irreparable injury to the corn in many parts of the country. It has been interrupted, within a few days past, by a pretty extensive rain. We shared in it here but scantily. I understand that at Charlottesville, which had been favored with preceding ones, it was plentiful. Be good enough to contrive an excuse to Mr. Randolph, at Monticello, for my not forwarding the Gazettes latterly, if you have not already thought of it. I know not how to apologize myself, and shall feel some awkwardness, as I shall not carry them when I go into his neighborhood.



TO THOMAS JEFFERSON.

August 20th, 1793.

DEAR SIR,—Your favor of the 11th came to hand the day before yesterday. I am just setting off to Monroe's, and hope to prevent the trouble of an express from Monticello with the letter referred to in it. I have already acquainted you with the immediate object of this visit. I have just received a line from him expressing a particular desire to communicate with me, and reminding me that he sets off the last of this month for the Courts, and of course will be occupied for some days before with preparations. This hurries me; and has forced me to hurry what will be inclosed herewith, particularly the last N<sup>o</sup>., 5, which required particular care in the execution. I shall be obliged to leave that, and the greater part of the other Nos., to be transcribed, sealed up, and forwarded in my absence. It is certain, therefore, that many little errors will take place. As I cannot let them be detained till I return, I must pray you to make such corrections as will not betray your hand. In pointing and *erasures*, not breaking the sense, there will be no difficulty. I have already requested you to make free with the latter. You will find more quotations from the Federalist. Dash them out, if you think the most squeamish critic could object to them. In N<sup>o</sup>. 5 I suggest to your attention a long preliminary remark, into which I suffered myself to be led before I was aware of the prolixity. As the piece is full long without it, it had probably better be lopped off. The propriety of the two last paragraphs claims your particular criticism. I would not have hazarded them without the prospect of your revisal, and, if proper, your erasure. That which regards Spain, &c., may contain unsound reasoning, or be too delicate to be touched in a newspaper. The propriety of the last, as to the President's answers to addressers, depends on the truth of the fact, of which you can judge. I am not sure that I have seen all the answers. My last was of the 12th, and covered the two first Nos. of Helvidius. I am assured that it was put into the post office on Tuesday evening. It ought, therefore, to have reached you on

Saturday last. As an opportunity to Fredericksburg may happen before more than the 3<sup>d</sup> N<sup>o</sup>. may be transcribed, it is possible that this may be accompanied by that alone.

The drought has been dreadful to the Corn. There has been no rain, making any sensible impression, for seven weeks of the hottest weather of the hottest year remembered, and at the very period critical to that crop. Yesterday afternoon we had a small shower, and more seemed to be passing around us. No weather, however, can now possibly add 5 per cent. to the prospect. There cannot be more than half crops made generally, and much less in many places.

Yrs aff<sup>y</sup>.

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TO THOMAS JEFFERSON.

AT COL. MONROE'S, Aug. 22d, 1793.

DEAR SIR,—I left home the day before yesterday, which was the date of my last; it was to be accompanied by 2, and perhaps, tho' not probably, 3 additional Numbers of *Helvidius*. The last, to wit, N<sup>o</sup>. 5, contained two paragraphs, the one relating to the accession of Spain and Portugal to the war against France, the other to the answers of the President to the addresses on his Proclamation, which I particularly requested you to revise, and, if improper, to erase. The whole piece was more hurried than it ought to have been, and these paragraphs penned in the instant of my setting out, which had been delayed as late as would leave enough of the day for the journey. I mention this as the only apology for the gross error of fact committed with respect to the term neutrality, which, it is asserted, the President has not used in any of his answers. I find, on looking into them here, that he used it in the first of all, to the Merchants of Philadelphia, and in one other, out of three which I have examined. I must make my conditional request, therefore, an absolute one, as to that passage. If he should forbear the use of the term in all his answers subsequent to the perversion

of it by Pacificus, it will strengthen the argument used; but that must be a future and contingent consideration. Mr. D. R. was not arrived yesterday. The family here well; so, also, at Monticello, as you will, no doubt, learn from the spot itself.

Adieu. Yrs aff<sup>ly</sup>.

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TO THOMAS JEFFERSON.

August 27th, 1793.

DEAR SIR,—I wrote you a few lines by the last post from this place, just to apprise you of my movement to it. I have since seen the Richmond and the Philad<sup>a</sup> papers, containing, the latter, the certificate of Jay & King, and the publications relating to the subject of it; the former, the proceedings at Richmond, dictated, no doubt, by the cabal at Philad<sup>a</sup>. It is painful to observe the success of the management for putting Wythe at the head of them. I understand, however, that a considerable revolution has taken place in his political sentiments, under the influence of some disgusts he has received from the State Legislature. By what has appeared, I discover that a determination has been formed to drag before the public the indiscretions of Genet, and turn them and the popularity of the President to the purposes driven at. Some impression will be made here, of course. A plan is evidently laid in Richmond to render it extensive. If an early and well-digested effort for calling out the real sense of the people be not made, there is room to apprehend they may, in many places, be misled. This has employed the conversation of ——— and myself. We shall endeavor at some means of repelling the danger, particularly by setting on foot expressions of the public mind in important counties, and under the auspices of respectable names. I have written, with this view, to Caroline, and have suggested a proper train of ideas, and a wish that Mr. P. would patronize the measure. Such an example would have great effect. Even if it should not be followed, it would be con-

sidered as an authentic specimen of the *Country* temper, and would put other places on their guard against the snares that may be laid for them. The want of opportunities, and our ignorance of trustworthy characters, will circumscribe our efforts in this way to a very narrow compass. The rains for several days have delayed my trip to the gentleman named in my last. Unless to-morrow should be a favorable day, I shall be obliged to decline it altogether. In two or three days I shall be in a situation to receive and answer your letters, as usual. That by Mr. D. R. has not reached me.

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TO THOMAS JEFFERSON.

Sept<sup>r</sup> 24, 1793.

DEAR SIR,—I have received your two favors of the 11th ult. by Mr. D. R., and of the 18th by post.

The conduct of Genet, as developed in these, and in his proceedings as exhibited in the newspapers, is as unaccountable as it is distressing. The effect is beginning to be strongly felt here, in the surprise and disgust of those who are attached to the French cause, and viewed this Minister as the instrument for cementing, instead of alienating, the two Republics. These sensations are powerfully reinforced by the general and habitual veneration for the President. The Anglican party is busy, as you may suppose, in making the worst of everything, and in turning the public feelings against France, and thence in favor of England. The only antidote for their poison is to distinguish between the nation and its agent; between principles and events; and to impress the well-meaning with the fact that the enemies of France and of Liberty are at work to lead them from their honorable connection with these into the arms, and ultimately into the Government, of Great Britain. If the genuine sense of the people could be collected on the several points comprehended in the occasion, the calamity would be greatly alleviated, if not absolutely controuled. But this is scarcely possible. The country is too much uninformed, and

too inert to speak for itself; and the language of the Towns, which are generally directed by an adverse interest, will insidiously inflame the evil. It is, however, of such infinite importance to our own Government, as well as to that of France, that the real sentiments of the people here should be understood, that something ought to be attempted on that head. I inclose a copy of a train of Ideas sketched on the first rumour of the war between the Executive and Genet, and particularly suggested by the Richmond Resolutions, as a groundwork for those who might take the lead in County meetings. It was intended that they should be modified in every particular, according to the state of information and the particular temper of the place. A copy has been sent to Caroline, with a hope that Mr. Pendleton might find it not improper to step forward; another is gone to the District Court at Staunton in the hands of Monroe, who carried a letter from me on the subject to A. Stuart; and a third will be for consideration at the district court at Charlottesville. If these examples should be set, there may be a chance of like proceedings elsewhere; and in themselves they will be respectable specimens of the principles and sensations of the agricultural, which is the commanding part of the Society. I am not sanguine, however, that the effort will succeed. If it does not, the State Legislatures, and the federal also, if possible, must be induced to take up the matter in its true point of view. Monroe and myself read with attention your despatch by D. R., and had much conversation on what passed between you and the President. It appeared to both of us that a real anxiety was marked to retain you in office; that over and above other motives, it was felt that your presence and implied sanction might be a necessary shield against certain criticisms from certain quarters; that the departure of the only counsellor possessing the confidence of the Republicans would be a signal for new and perhaps very disagreeable attacks; that in this point of view the respectful and conciliatory language of the President is worthy of particular attention, and that it affords a better hope than has existed of your being able to command attention, and to moderate the

predominant tone. We agreed in opinion, also, that whilst this end is pursued, it would be wise to make as few concessions as possible that might embarrass the free pursuit of measures which may be dictated by Republican principles, and required by the public good. In a word, we think you ought to make the most of the value we perceive to be placed on your participation in the Executive counsels. I am extremely glad to find that you are to remain another quarter. The season will be more apropos in several respects; and it will prevent any co-operation which a successor might be disposed to make towards a final breach with France. I have little hope that you will have one whose policy will have the same healing tendency with yours. I foresee, I think, that it will be either King, if Johnson is put at the Treasury, or E. Rutledge, if Wolcott should be put there. I am glad the President rightly infers my determination from antecedent circumstances, so as to free me from imputations in his mind connected with the present state of things. Monroe is particularly solicitous that you should take the view of your present position and opportunities above suggested. He sees so forcibly the difficulty of keeping the feelings of the people as to Genèt distinct from those due to his constituents, that he can hardly prevail on himself, absolutely and *openly*, to abandon him. I concur with him that it ought to be done no farther than is forced upon us; that general silence is better than open denunciation and crimination; and that it is not unfair to admit the apologetic influence of the errors in our own government, which may have inflamed the passions which now discolor every object to his eye—such as the refusal, in the outset of the government, to favor the commerce of France more than that of Great Britain; the unfortunate appointment of Gouv. Morris to the former; the language of the proclamation; the attempts of Pacificus to explain away and dissolve the Treaty; the notoriety of the author, and the appearance of its being an informal manifestation of the views of the Executive, &c.

I paid a short visit to Mr. W. C. Nicholas, as I proposed. He talks like a sound Republican and sincere friend to the

French cause, in every respect. I collected from him that Edmund Randolph had admitted to him that he drew the proclamation; that he had been attacked on it at Chatham by Mr. Jos. Jones; that he reprobated the comment of Pacificus, &c. W. C. N. observed that Hamilton had taken the Executive in by gaining phrases, of which he could make the use he has done.

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I hope you have received the five Nos. of Helvidius. I must resume the task, I suppose, in relation to the *Treaty* and *gratitude*. I feel, however, so much awkwardness under the new posture of things, that I shall deliberate whether a considerable postponement, at least, may not be advisable.

I found, also, on my return, a house full of particular friends, who will stay some weeks, and receive and return visits, from which I cannot decently exclude myself. If I should perceive it impossible or improper to continue the publication, so as to avail myself of the channel used to the press, I shall suspend it till I see and talk with you on the whole matter.

Adieu.

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*Sketch.*—[Referred to in p. 597.]

It being considered that it is at all times the right, and at certain periods the duty, of the people to declare their principles and opinions on subjects which concern the national interest; that at the present conjuncture this duty is rendered the more indispensable by the prevailing practice of declaratory resolutions, in places where the inhabitants can more easily assemble and consult than in the country at large, and where interests, views, and political opinions, different from those of the great body of the people, may happen to predominate, whence there may be danger of unfair and delusive inferences concerning the true and general sense of the people; it being also considered that, under the disadvantage a great proportion of the people [suffer?] in their distant and dispersed situation, from the want of timely

and correct knowledge of particular incidents, and the conduct of particular persons connected with public transactions, it is most prudent and safe to wait with a decent reserve for full and satisfactory information in relation thereto, and in public declarations to abide by those great principles, just sentiments, and established truths, which can be little affected by personal or transitory occurrences:

Therefore, as the sense of the present Meeting,

Resolved, That the Constitution of the United States ought to be firmly and vigilantly supported against all direct or indirect attempts that may be made to subvert or violate the same:

That as it is the interest of the United States to cultivate the preservation of peace by all just and honorable means, the Executive authority ought to be supported in the exercise of its Constitutional powers and functions for enforcing the laws existing for that purpose:

That the eminent virtues and services of our illustrious fellow-citizen, George Washington, President of the United States, entitle him to the highest respect and lasting gratitude of his Country, whose peace, liberty, and safety, must ever remind it of his distinguished agency in promoting the same:

That the eminent and generous aids rendered to the United States in their arduous struggle for liberty by the French Nation ought ever to be remembered and acknowledged with gratitude, and that the spectacle exhibited by the severe and glorious contest in which it is now engaged for its own liberty, ought and must be peculiarly interesting to the wishes, the friendship, and the sympathy of the people of America:

That all attempts which may be made, in whatever form or disguise, to alienate the good will of the people of America from the cause of liberty and republican Government in France, have a tendency to weaken their affection to the free principles of their own Government, and manifest designs which ought to be narrowly watched and seasonably counteracted:

That such attempts to disunite Nations mutually attached to the cause of liberty, and viewed with unfriendly eyes by all who



hate it, ought more particularly to be reprobated at the present crisis, when such vast efforts are making by a combination of Princes and Nobles to crush an example that may open the eyes of all mankind to their natural and political rights:

That a dissolution of the honorable and beneficial connection between the United States and France would obviously tend to forward a plan of connecting them with Great Britain, as one great, leading step towards assimilating our Government to the form and spirit of the British Monarchy; and that this apprehension is greatly strengthened by the active zeal displayed by persons disaffected to the American Revolution, and by others of known monarchical principles, in propagating prejudices against the French Nation and Revolution.

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TO JAMES MONROE.

September 15, 1793.

DEAR SIR,—Since I parted from you I have had several letters from Mr. Jefferson, in which all the *facts* involving Genet are detailed. His conduct has been that of a madman. He is abandoned even by his votaries in Philadelphia. Hutchison declares that he has ruined the Republican interest in that place. I wish I could forward the details I have received, but they are too confidential to be hazarded by the casual conveyance to which this is destined. They ought, however, to have no other effect on the steps to be pursued than to caution against founding any of them on the presumed inculpability of Genet. As he has put himself on such unjustifiable ground, perhaps it is fortunate that he has done it in so flagrant a manner. It will be the more easily believed here that he has acted against the sense of his constituents, and the latter will be the less likely to support him in his errors. I find that the Anglicans and Monocrats, from Boston to Philadelphia, are betrayed by the occasion into the most palpable discovery of their real views. They already lose sight of the Agent, and direct their hostilities *immediately against France*. This will do good, if proper use

be made of it. You will see by the late papers that Great Britain has made war on our commerce, by intercepting uncontraband articles bound to unblockaded ports, and taking them to herself at her own price. This must bring on a crisis with us unless the order be revoked on our demand, of which there is not the least probability. I understand that the malignant fever in Philadelphia is raging still with great violence, and all the inhabitants who can are flying from it in every direction. The mortality at first was in the ratio of 3 out of 4. It had been reduced to 1 out of 3. Mr. Jefferson is in raptures with the performance of our friend in Caroline. He means to have it appear about two weeks before the meeting of Congress. This will not coincide with the plan of the Author, who wished its publication to be in time for the meeting of the State Legislature. Think of this, and let me know your ideas.

On my return home I found a letter from Mr. Jones, which I enclose, as the shortest [way?] of making you acquainted with what he wishes. With all due respect to Mrs. Monroe,

I am, yours affectionately.

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TO GEORGE WASHINGTON.

ORANGE, Oct. 24th, 1793.

DEAR SIR,—Your letter of the 14th Inst. did not arrive till Sunday night, and being not then at home, I did not receive it till last night. I now lose not a moment in complying with its request; tho' I foresee it cannot reach you before you will have left Mount Vernon, and before you will probably have made up a final determination on some, if not all the questions proposed. These are:

1. Ought the President to summon Congress at a time and place to be named by him? or,
2. If the President has no power to change the place, ought he to abstain from all interposition whatever? or,
3. Ought he to notify the obstacle to a meeting at Philad<sup>a</sup>,

state the defect of a regular provision for the exigency, and suggest his purpose of repairing to a place deemed most eligible for a meeting in the first instance?

4. What is the place liable to the fewest objections?

From the best investigation I have been able to make in so short a time, the first expedient, tho' most adequate to the exigency, seems to require an authority that does not exist under the Constitution and laws of the U. S.

The only passage in the Constitution in which such an authority could be sought is that which says: "The President may, on extraordinary occasions, convene both Houses, or either of them." But the obvious import of these terms is satisfied by referring them to the time only at which the extraordinary meeting is summoned. If, indeed, they included a discretion as to the place as well as the time, it would be unnecessary to recur to the expedient of altering the time in order to get at an alteration of the place. The President could as well alter the place without interfering with the time, as alter the time without interfering with the place. Besides, the effect of a change as to place would not be in all respects similar to a change as to time. In the latter case, an extraordinary Session, running into the period of an ordinary one, would allow the ordinary one to go on under all the circumstances prescribed by law. In the former case, this would not happen. The ordinary part of the Session would be held out of the place prescribed for it, unless prevented by a positive act for returning to it.

The obvious meaning here assigned to the phrase is confirmed by other parts of the Constitution. It is well known that much jealousy has always appeared in everything connected with the residence of the General Government. The solicitude of the Constitution to appease this jealousy is particularly marked by the 1<sup>st</sup> paragraph of section 6<sup>th</sup>, and the 3<sup>d</sup> paragraph of section the 7<sup>th</sup>, of Article I. The light in which these paragraphs must be viewed cannot well be reconciled with a supposition that it was meant to entrust the executive alone with any power on that subject.

Laying aside the Constitution and consulting the law, the ex-

pedient seems to be no less inadmissible. The act of July, 1790, "establishing the temporary and permanent seat of the Government of the U. S.," cannot be understood to leave any such power in the President. And as the power, if exercised so as to interfere with the provision relating to the temporary seat, might beget an alarm, lest, in the hands of a President unfriendly to the permanent seat, it should be turned on some pretext or other against that arrangement, prudential reasons unite with legal ones for avoiding the precedent.

The 2<sup>d</sup> mode of treating the difficulty would seem to be best, if the danger at Germantown were out of the way. A voluntary resort to that place might be relied on; and the members of the Legislature, finding themselves together and with the President, might legalize the necessary steps; or, if that should be thought wrong, might deliberate and decide for themselves on the emergency. But as the danger might defeat such an expectation, it results that the

3<sup>d</sup> expedient is called for by the occasion; and being sufficient, is all that can be justified by it.

The 4<sup>th</sup> point to be considered is the delicate one of naming the place.

In deciding this point, it would seem proper to attend, *first*, to the risk of the infection; this consideration lies, as you observe, against Trenton and Wilmington. Secondly, to Northern and Southern jealousies. This applies to N. York and Annapolis. Thirdly, to the disposition of Pennsylv<sup>a</sup>; which is entitled to some regard, as well by her calamity as by the circumstance of her being in possession of the Government.

In combining these considerations, we are led to look for some place within the State of Pennsylv<sup>a</sup> not materially different from Philad<sup>a</sup> in relation to North and South. Lancaster and Reading appear to have occurred. With the former I am but little acquainted. The latter I never saw. If the object of the Executive should be merely to put Congress in the most neutral situation possible for choosing a place for themselves, as would have been the case at Germantown, Reading seems to have the better pretensions. If the object should be to provide a place,

at once marking an impartiality in the Executive, and capable of retaining Congress during the Session, Lancaster seems to claim a preference.

If the measure which my present view of the subject favors should be deemed least objectionable, something like the following form might be given to it:

Whereas a very dangerous and infectious malady, which continues to rage in the City of Philad<sup>a</sup>, renders it indispensable that the approaching Session of Congress should be held, as well as the Executive Department be for the present administered, at some other place; And whereas no regular provision exists for such an emergency, so that, unless some other place be pointed out at which the members of Congress may assemble in the first instance, great embarrassments may happen; under these peculiar circumstances, I have thought it incumbent on me to notify the obstacle to a meeting of Congress at the ordinary place of their Session, and to recommend that the several members assemble on the day appointed at ———, in the State of ———, at which place I shall be ready to meet them.

G. W., P. U. S.

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TO JAMES MONROE.

October 29, 1793.

DEAR SIR,—Inclosed are two newspapers, one of which contains the Resolutions proposed at Fredericksburg and a letter from Bourdeaux, which is not uninteresting. You will find, also, two pieces, one from Alexandria, and another answering it, which, as connected with the present crisis, may be worth reading. At Culpeper Court the proposed meeting took effect, General Stephens in the chair. The result, as stated to me, is not censurable, if at all, on the score surmised. It has not the smallest tincture of Anglomany or Aristocracy. I am informed that one of the Resolutions, which speaks of the attempts to alienate America from France in the *past*, as well as future

time, was carried in the Committee, after considerable debate, and confirmed by the people on a motion to amend. The Resolutions in Fauquier are said to be a servile echo of those in Richmond. When you come on, pray bring with you such of Davis' papers as may have been received since I left you. I send the little balance of tea due to Mrs. Monroe, which I intended, but failed, to procure before my late trip. As you are becoming a worshipper of Ceres, I add an ear of corn, which is forwarder, by three weeks, than the ordinary sort, and if given to your overseer, may supply a seasonable dish on your return next summer. Mr. Jefferson is so delighted with it, that he not only requested me to forward some to Mr. Randolph, but took an ear with him, to be brought back on his return, that there might be no possible disappointment. Should you have an opportunity, after you know the day of your setting out, be so good as to drop me notice of it. My compliments to Mrs. Monroe.

Yrs, always and affly.

HELVIDIUS,

IN ANSWER TO PACIFICUS,

ON

PRESIDENT WASHINGTON'S PROCLAMATION  
OF NEUTRALITY.

APRIL 22, 1793.





## PROCLAMATION OF NEUTRALITY.

APRIL 22, 1793.

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Whereas it appears that a state of war exists between Austria, Prussia, Sardinia, Great Britain, and the United Netherlands, of the one part, and France on the other, and the duty and interest of the United States require that they should with sincerity and good faith adopt and pursue a conduct friendly and impartial towards the belligerent powers:

I have therefore thought fit, by these presents, to declare the disposition of the United States to observe the conduct aforesaid towards those powers respectively; and to exhort and warn the citizens of the United States carefully to avoid all acts and proceedings whatsoever, which may in any manner tend to contravene such disposition.

And I do hereby also make known that whosoever of the citizens of the United States shall render himself liable to punishment or forfeiture under the law of nations, by committing, aiding, or abetting hostilities against any of the said powers, or by carrying to any of them those articles which are deemed contraband by the modern usage of nations, will not receive the protection of the United States against such punishment or forfeiture; and further, that I have given instructions to those officers, to whom it belongs, to cause prosecutions to be instituted against all persons who shall, within the cognizance of the courts of the United States, violate the law of nations, with respect to the powers at war, or any of them.

In testimony whereof, I have caused the seal of the United States of America to be affixed to these presents, and signed the same with my  
[L. s.] hand. Done at the City of Philadelphia, the twenty-second day of April, one thousand seven hundred and ninety-three, and of the Independence of the United States of America the seventeenth.

G. WASHINGTON.

BY THE PRESIDENT:

THOMAS JEFFERSON.



## HELVIDIUS.

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### NUMBER I.

Several pieces with the signature of PACIFICUS were lately published, which have been read with singular pleasure and applause by the foreigners and degenerate citizens among us, who hate our republican government, and the French revolution; whilst the publication seems to have been too little regarded, or too much despised, by the steady friends to both.

Had the doctrines inculcated by the writer, with the natural consequences from them, been nakedly presented to the public, this treatment might have been proper. Their true character would then have struck every eye, and been rejected by the feelings of every heart. But they offer themselves to the reader in the dress of an elaborate dissertation; they are mingled with a few truths that may serve them as a passport to credulity; and they are introduced with professions of anxiety for the preservation of peace, for the welfare of the government, and for the respect due to the present head of the executive, that may prove a snare to patriotism.

In these disguises they have appeared to claim the attention I propose to bestow on them, with a view to show, from the publication itself, that under color of vindicating an important public act of a chief magistrate who enjoys the confidence and love of his country, principles are advanced which strike at the vitals of its constitution, as well as at its honor and true interest.

As it is not improbable that attempts may be made to apply insinuations, which are seldom spared when particular purposes are to be answered, to the author of the ensuing observations, it may not be improper to premise, that he is a friend to the constitution, that he wishes for the preservation of peace, and

that the present chief magistrate has not a fellow-citizen who is penetrated with deeper respect for his merits, or feels a purer solicitude for his glory.

This declaration is made with no view of courting a more favorable ear to what may be said than it deserves. The sole purpose of it is, to obviate imputations which might weaken the impressions of truth; and which are the more likely to be resorted to, in proportion as solid and fair arguments may be wanting.

The substance of the first piece, sifted from its inconsistencies and its vague expressions, may be thrown into the following propositions:

That the powers of declaring war and making treaties are, in their nature, executive powers:

That being particularly vested by the constitution in other departments, they are to be considered as exceptions out of the general grant to the executive department:

That being, as exceptions, to be construed strictly, the powers not strictly within them remain with the executive:

That the executive, consequently, as the organ of intercourse with foreign nations, and the interpreter and executor of treaties, and the law of nations, is authorized to expound all articles of treaties, those involving questions of war and peace, as well as others; to judge of the obligations of the United States to make war or not, under any *casus fœderis*, or eventual operation of the contract relating to war; and to pronounce the state of things resulting from the obligations of the United States, as understood by the executive:

That, in particular, the executive had authority to judge whether, in the case of the mutual guaranty between the United States and France, the former were bound by it to engage in the war:

That the executive has, in pursuance of that authority, decided that the United States are not bound: and

That its proclamation of the 22d of April last is to be taken as the effect and expression of that decision.

The basis of the reasoning is, we perceive, the extraordinary

doctrine that the powers of making war and treaties are, in their nature, executive, and therefore comprehended in the general grant of executive power, where not especially and strictly excepted out of the grant.

Let us examine this doctrine; and that we may avoid the possibility of mistaking the writer, it shall be laid down in his own words; a precaution the more necessary, as scarce any thing else could outweigh the improbability that so extravagant a tenet should be hazarded at so early a day, in the face of the public.

His words are: "Two of these [exceptions and qualifications " to the executive powers] have been already noticed—the participation of the senate in the *appointment of officers* and the "*making of treaties*. A third remains to be mentioned—the "right of the legislature to *declare war and grant letters of "marque and reprisal*."

Again: "It deserves to be remarked, that as the participation " of the senate in the *making of treaties*, and the power of the " legislature to *declare war*, are *exceptions* out of the general " *executive power* vested in the president, they are to be construed *strictly*, and ought to be extended no further than is " *essential* to their execution."

If there be any countenance to these positions, it must be found either, first, in the writers of authority on public law; or, 2d, in the quality and operation of the powers to make war and treaties; or, 3d, in the constitution of the United States.

It would be of little use to enter far into the first source of information, not only because our own reason and our own constitution are the best guides, but because a just analysis and discrimination of the powers of government, according to their executive, legislative, and judiciary qualities, are not to be expected in the works of the most received jurists, who wrote before a critical attention was paid to those objects, and with their eyes too much on monarchical governments, where all powers are confounded in the sovereignty of the prince. It will be found, however, I believe, that all of them, particularly

Wolfius, Burlamaqui, and Vattel, speak of the powers to declare war, to conclude peace, and to form alliances, as among the highest acts of the sovereignty, of which the legislative power must at least be an integral and pre-eminent part.

Writers, such as Locke and Montesquieu, who have discussed more particularly the principles of liberty and the structure of government, lie under the same disadvantage of having written before these subjects were illuminated by the events and discussions which distinguish a very recent period. Both of them, too, are evidently warped by a regard to the particular government of England, to which one of them owed allegiance;\* and the other professed an admiration bordering on idolatry. Montesquieu, however, has rather distinguished himself by enforcing the reasons and the importance of avoiding a confusion of the several powers of government, than by enumerating and defining the powers which belong to each particular class. And Locke, notwithstanding the early date of his work on civil government, and the example of his own government before his eyes, admits that the particular powers in question, which, after some of the writers on public law, he calls *federative*, are really *distinct* from the *executive*, though almost always united with it, and *hardly to be separated into distinct hands*. Had he not lived under a monarchy in which these powers were united, or had he written by the lamp which truth now presents to lawgivers, the last observation would probably never have dropped from his pen. But let us quit a field of research which is more likely to perplex than to decide, and bring the question to other tests of which it will be more easy to judge.

2. If we consult for a moment the nature and operation of the two powers to declare war and to make treaties, it will be impossible not to see that they can never fall within a proper definition of executive powers. The natural province of the

\* The chapter on prerogative shows how much the reason of the philosopher was clouded by the royalism of the Englishman.

executive magistrate is to execute laws, as that of the legislature is to make laws. All his acts, therefore, properly executive, must presuppose the existence of the laws to be executed. A treaty is not an execution of laws; it does not presuppose the existence of laws. It is, on the contrary, to have itself the force of a *law*, and to be carried into *execution*, like all *other laws*, by the *executive magistrate*. To say, then, that the power of making treaties, which are confessedly laws, belongs naturally to the department which is to execute laws, is to say that the executive department naturally includes a legislative power. In theory this is an absurdity; in practice, a tyranny.

The power to declare war is subject to similar reasoning. A declaration that there shall be war is not an execution of laws; it does not suppose pre-existing laws to be executed; it is not, in any respect, an act merely executive. It is, on the contrary, one of the most deliberative acts that can be performed, and, when performed, has the effect of *repealing* all the *laws* operating in a state of peace, so far as they are inconsistent with a state of war, and of *enacting* as a *rule for the executive* a *new code* adapted to the relation between the society and its foreign enemy. In like manner, a conclusion of peace *annuls* all the *laws* peculiar to a state of war, and *revives* the *general laws* incident to a state of peace.

These remarks will be strengthened by adding that treaties, particularly treaties of peace, have sometimes the effect of changing not only the external laws of the society, but operate also on the internal code, which is purely municipal, and to which the legislative authority of the country is of itself competent and complete.

From this view of the subject it must be evident, that although the executive may be a convenient organ of preliminary communications with foreign governments on the subjects of treaty or war, and the proper agent for carrying into execution the final determinations of the competent authority, yet it can have no pretensions, from the nature of the powers in question compared with the nature of the executive trust, to that essential agency which gives validity to such determinations. It must

be further evident, that if these powers be not, in their nature, purely legislative, they partake so much more of that than of any other quality, that under a constitution leaving them to result to their most natural department, the legislature would be without a rival in its claim.

Another important inference to be noted is, that the powers of making war and treaty being substantially of a legislative, not an executive nature, the rule of interpreting exceptions strictly must narrow, instead of enlarging, executive pretensions on those subjects.

3. It remains to be inquired, whether there be anything in the constitution itself which shows that the powers of making war and peace are considered as of an executive nature, and as comprehended within a general grant of executive power.

It will not be pretended that this appears from any *direct* position to be found in the instrument.

If it were *deducible* from any particular expressions, it may be presumed that the publication would have saved us the trouble of the research.

Does the doctrine, then, result from the actual distribution of powers among the several branches of the government? or from any fair analogy between the powers of war and treaty, and the enumerated powers vested in the executive alone?

Let us examine:

In the general distribution of powers, we find that of declaring war expressly vested in the Congress, where every other legislative power is declared to be vested, and without any other qualification than what is common to every other legislative act. The constitutional idea of this power would seem, then, clearly to be, that it is of a legislative, and not an executive nature.

This conclusion becomes irresistible, when it is recollected that the constitution cannot be supposed to have placed either any power legislative in its nature entirely among executive powers, or any power executive in its nature entirely among



legislative powers, without charging the constitution with that kind of intermixture and consolidation of different powers which would violate a fundamental principle in the organization of free governments. If it were not unnecessary to enlarge on this topic here, it could be shown that the constitution was originally vindicated, and has been constantly expounded, with a disavowal of any such intermixture.

The power of treaties is vested jointly in the president and in the senate, which is a branch of the legislature. From this arrangement merely, there can be no inference that would necessarily exclude the power from the executive class: since the senate is joined with the president in another power, that of appointing to offices, which, as far as relate to executive offices, at least, is considered as of an executive nature. Yet, on the other hand, there are sufficient indications that the power of treaties is regarded by the constitution as materially different from mere executive power, and as having more affinity to the legislative than to the executive character.

One circumstance indicating this, is the constitutional regulation under which the senate give their consent in the case of treaties. In all other cases, the consent of the body is expressed by a majority of voices. In this particular case, a concurrence of two-thirds, at least, is made necessary, as a substitute or compensation for the other branch of the legislature, which, on certain occasions, could not be conveniently a party to the transaction.

But the conclusive circumstance is, that treaties, when formed according to the constitutional mode, are confessedly to have the force and operation of *laws*, and are to be a rule for the courts in controversies between man and man, as much as any *other laws*. They are even emphatically declared by the constitution to be "the supreme law of the land."

So far, the argument from the constitution is precisely in opposition to the doctrine. As little will be gained in its favor from a comparison of the two powers with those particularly vested in the president alone.

As there are but few, it will be most satisfactory to review them one by one.

"The president shall be commander-in-chief of the army and "navy of the United States, and of the militia when called "into the actual service of the United States."

There can be no relation worth examining between this power and the general power of making treaties. And instead of being analogous to the power of declaring war, it affords a striking illustration of the incompatibility of the two powers in the same hands. Those who are to *conduct a war* cannot, in the nature of things, be proper or safe judges, whether *a war ought* to be *commenced*, *continued*, or *concluded*. They are barred from the latter function by a great principle in free government, analogous to that which separates the sword from the purse, or the power of executing from the power of enacting laws.

"He may require the opinion in writing of the principal "officers in each of the executive departments upon any "subject relating to the duties of their respective offices; "and he shall have power to grant reprieves and pardons "for offences against the United States, except in case of "impeachment." These powers can have nothing to do with the subject.

"The president shall have power to fill up vacancies that "may happen during the recess of the senate, by granting com- "missions, which shall expire at the end of the next session." The same remark is applicable to this power, as also to that of "receiving ambassadors, other public ministers, and consuls." The particular use attempted to be made of this last power will be considered in another place.

"He shall take care that the laws shall be faithfully executed, and shall commission all officers of the United States." To see the laws faithfully executed constitutes the essence of the executive authority. But what relation has it to the power of making treaties and war; that is, of determining what the *laws shall be* with regard to other nations? No other, certainly, than what

subsists between the powers of executing and enacting laws; no other, consequently, than what forbids a coalition of the powers in the same department.

I pass over the few other specified functions assigned to the president, such as that of convening the legislature, &c., &c., which cannot be drawn into the present question.

It may be proper, however, to take notice of the power of removal from office, which appears to have been adjudged to the president by the laws establishing the executive departments, and which the writer has endeavored to press into his service. To justify any favorable inference from this case, it must be shown that the powers of war and treaties are of a kindred nature to the power of removal, or at least are equally within a grant of executive power. Nothing of this sort has been attempted, nor probably will be attempted. Nothing can, in truth, be clearer, than that no analogy, or shade of analogy, can be traced between a power in the supreme officer, responsible for the faithful execution of the laws, to displace a subaltern officer employed in the execution of the laws; and a power to make treaties, and to declare war, such as these have been found to be in their nature, their operation, and their consequences.

Thus it appears, that by whatever standard we try this doctrine, it must be condemned as no less vicious in theory than it would be dangerous in practice. It is countenanced neither by the writers on law; nor by the nature of the powers themselves; nor by any general arrangements, or particular expressions, or plausible analogies, to be found in the constitution.

Whence, then, can the writer have borrowed it?

There is but one answer to this question.

The power of making treaties and the power of declaring war, are *royal prerogatives in the British government*, and are accordingly treated as *executive prerogative by British commentators*.

We shall be the more confirmed in the necessity of this solution of the problem by looking back to the era of the consti-

tution, and satisfying ourselves that the writer could not have been misled by the doctrines maintained by our own commentators on our own government. That I may not ramble beyond prescribed limits, I shall content myself with an extract from a work which entered into a systematic explanation and defence of the constitution, and to which there has frequently been ascribed some influence in conciliating the public assent to the government in the form proposed. Three circumstances conspire in giving weight to this cotemporary exposition. It was made at a time when no application to *persons or measures* could bias: the opinion given was not transiently mentioned, but formally and critically elucidated: it related to a point in the constitution which must consequently have been viewed as of importance in the public mind. The passage relates to the power of making treaties; that of declaring war being arranged with such obvious propriety among the legislative powers, as to be passed over without particular discussion.

“ Though several writers on the subject of government place “ that power [*of making treaties*] in the class of *executive authorities*, yet this is *evidently an arbitrary disposition*. For if “ we attend *carefully* to its operation, it will be found to partake *more* of the *legislative* than of the *executive* character, “ though it does not seem strictly to fall within the definition “ of either of them. The essence of the legislative authority is “ to enact laws; or, in other words, to prescribe rules for the “ regulation of the society; while the execution of the laws “ and the employment of the common strength, either for this “ purpose or for the common defence, seem to comprise *all* the “ functions of the *executive magistrate*. The power of making “ treaties is *plainly* neither the one nor the other. It relates “ neither to the execution of the subsisting laws, nor to the “ enactment of new ones, and still less to an exertion of the “ common strength. Its objects are contracts with foreign “ nations, which have the *force of law*, but derive it from the “ obligations of good faith. They are not rules prescribed by “ the sovereign to the subject, but agreements between sovereign and sovereign. The power in question seems, there-

“fore, to form a distinct department, and to belong properly  
“neither to the legislative nor to the executive. The qualities  
“elsewhere detailed as indispensable in the management of  
“foreign *negotiations* point out the executive as the most fit  
“agent in those transactions; whilst the vast importance  
“of the trust, and the operation of treaties *as laws*, plead  
“strongly for the participation of the whole or a part of the  
“*legislative body* in the office of making them.”—Federalist,  
p. 343.\*

It will not fail to be remarked on this commentary, that whatever doubts may be started as to the correctness of its reasoning against the legislative nature of the power to make treaties; it is *clear, consistent, and confident*, in deciding that the power is *plainly and evidently* not an *executive power*.

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#### NUMBER II.

The doctrine which has been examined is pregnant with inferences and consequences, against which no ramparts in the constitution could defend the public liberty, or scarcely the forms of republican government. Were it once established that the powers of war and treaty are in their nature executive; that so far as they are not by strict construction transferred to the legislature, they actually belong to the executive; that of course all powers not less executive in their nature than those powers, if not granted to the legislature, may be claimed by the executive; if granted, are to be taken *strictly*, with a residuary right in the executive; or, as will hereafter appear, perhaps claimed as a concurrent right by the executive; and no citizen could any longer guess at the character of the government under which he lives; the most penetrating jurist would be unable to scan the extent of constructive prerogative.

Leaving, however, to the leisure of the reader deductions which the author, having omitted, might not choose to own, I

\* No. 75, written by Mr. Hamilton.

proceed to the examination of one with which that liberty can not be taken.

"However true it may be (says he) that the right of the legislature to declare war *includes the right of judging* whether the legislature be under obligations to make war or not, it will not follow that the executive is, *in any case*, excluded from a *similar right* of judging, in the execution of its own functions."

A material error of the writer, in this application of his doctrine, lies in his shrinking from its regular consequences. Had he stuck to his principle in its full extent, and reasoned from it without restraint, he would only have had to defend himself against his opponents. By yielding the great point, that the right to declare war, *though to be taken strictly*, includes the right to judge whether the nation be under obligation to make war or not, he is compelled to defend his argument, not only against others, but against himself also. Observe how he struggles in his own toils.

He had before admitted, that the right to declare war is vested in the legislature. He here admits that the right to declare war includes the right to judge whether the United States be obliged to declare war or not. Can the inference be avoided that the executive, instead of having a similar right to judge, is as much excluded from the right to judge as from the right to declare?

If the right to declare war be an exception out of the general grant to the executive power, every thing included in the right must be included in the exception; and, being included in the exception, is excluded from the grant.

He cannot disentangle himself by considering the right of the executive to judge as *concurrent* with that of the legislature: for if the executive have a concurrent right to judge, and the right to judge be included in (it is, in fact, the very essence of) the right to declare, he must go on and say that the executive has a concurrent right also to declare. And then, what will he do with his other admission, that the power to declare is an exception out of the executive power?

Perhaps an attempt may be made to creep out of the difficulty through the words, "in the execution of its functions." Here, again, he must equally fail.

Whatever difficulties may arise in defining the executive authority in particular cases, there can be none in deciding on an authority clearly placed by the constitution in another department. In this case, the constitution has decided what shall not be deemed an executive authority; though it may not have clearly decided in every case what shall be so deemed. The declaring of war is expressly made a legislative function. The judging of the obligations to make war, is admitted to be included as a legislative function. Whenever, then, a question occurs, whether war shall be declared, or whether public stipulations require it, the question necessarily belongs to the department to which those functions belong; and no other department can be *in the execution of its proper functions* if it should undertake to decide such a question.

There can be no refuge against this conclusion but in the pretext of a *concurrent* right in both departments to judge of the obligation to declare war; and this must be intended by the writer, when he says: "It will not follow that the executive is excluded *in any case* from a *similar right* of judging," &c.

As this is the ground on which the ultimate defence is to be made, and which must either be maintained or the works erected on it demolished, it will be proper to give its strength a fair trial.

It has been seen that the idea of a *concurrent* right is at variance with other ideas advanced or admitted by the writer. Laying aside, for the present, that consideration, it seems impossible to avoid concluding, that if the executive, as such, has a concurrent right with the legislature to judge of obligations to declare war, and the right to judge be essentially included in the right to declare, it must have the same concurrent right to declare as it has to judge, and, by another analogy, the same right to judge of other causes of war as of the particular cause found in a public stipulation. So that,

whenever the executive, *in the course of its functions*, shall meet with these cases, it must either infer an equal authority in all, or acknowledge its want of authority in any.

If any doubt can remain, or rather if any doubt could ever have arisen, which side of the alternative ought to be embraced, it can be with those only who overlook or reject some of the most obvious and essential truths in political science.

The power to judge of the causes of war, as involved in the power to declare war, is expressly vested where all other legislative powers are vested, that is, in the Congress of the United States. It is, consequently, determined by the constitution to be a *legislative power*. Now, omitting the inquiry here, in what respects a compound power may be partly legislative and partly executive, and accordingly vested *partly* in the one and *partly* in the other department, or *jointly* in both; a remark used on another occasion is equally conclusive on this, that the same power cannot belong, *in the whole*, to *both* departments, or be properly so vested as to operate *separately* in *each*. Still more evident is it, that the same *specific function or act* cannot possibly belong to the *two* departments, and be *separately* exercisable by *each*.

Legislative power may be *concurrently* vested in different legislative bodies. Executive powers may be concurrently vested in different executive magistrates. In legislative acts the executive may have a participation, as in the qualified negative on the laws. In executive acts, the legislature, or at least a branch of it, may participate, as in the appointment to offices. Arrangements of this sort are familiar in theory, as well as in practice. But an independent exercise of an *executive act* by the legislature *alone*, or of a *legislative act* by the executive *alone*, one or other of which must happen in every case where the same act is exercisable by each, and the latter of which would happen in the case urged by the writer, is contrary to one of the first and best maxims of a well-organized government, and ought never to be founded in a forced construction, much less in opposition to a fair one. Instances, it is true, may be discovered among ourselves, where this maxim



has not been faithfully pursued; but being generally acknowledged to be errors, they confirm rather than impeach the truth and value of the maxim.

It may happen, also, that different independent departments, the legislative and executive, for example, may, in the exercise of their functions, interpret the constitution differently, and thence lay claim each to the same power. This difference of opinion is an inconvenience not entirely to be avoided. It results from what may be called, if it be thought fit, a *concurrent* right to expound the constitution. But *this species* of concurrence is obviously and radically different from that in question. The former supposes the constitution to have given the power to one department only, and the doubt to be to which it has been given. The latter supposes it to belong to both; and that it may be exercised by either or both, according to the course of exigencies.

A concurrent authority in two independent departments to perform the same function with respect to the same thing, would be as awkward in practice as it is unnatural in theory.

If the legislature and executive have both a right to judge of the obligations to make war or not, it must sometimes happen, though not at present, that they will judge differently. The executive may proceed to consider the question to-day; may determine that the United States are not bound to take part in a war; and, *in the execution of its functions*, proclaim that determination to all the world. To-morrow, the legislature may follow in the consideration of the same subject; may determine that the obligations impose war on the United States, and, *in the execution of its functions*, enter into a *constitutional declaration*, expressly contradicting the *constitutional proclamation*.

In what light does this present the constitution to the people who established it? In what light would it present to the world a nation, thus speaking through two different organs, equally constitutional and authentic, two opposite languages, on the same subject, and under the same existing circumstances?

But it is not with the legislative rights alone that this doctrine interferes. The rights of the judiciary may be equally invaded. For it is clear, that if a right declared by the constitution to be legislative, and actually vested by it in the legislature, leaves, notwithstanding, a similar right in the executive, whenever a case for exercising it occurs *in the course of its functions*; a right declared to be judiciary, and vested in that department, may, on the same principle, be assumed and exercised by the executive *in the course of its functions*; and it is evident that occasions and pretexts for the latter interference may be as frequent as for the former. So again the judiciary department may find equal occasions in the execution of *its functions*, for usurping the authorities of the executive, and the legislature for stepping into the jurisdiction of both. And thus all the powers of government, of which a partition is so carefully made among the several branches, would be thrown into absolute hotchpot, and exposed to a general scramble.

It is time, however, for the writer himself to be heard, in defence of his text. His comment is in the words following:

“If the legislature have a right to make war on the one hand, it is, on the other, the duty of the executive to preserve peace till war is declared; and in fulfilling that duty, it must necessarily possess a right of judging what is the nature of the obligations which the treaties of the country impose on the government; and when, in pursuance of this right, it has concluded that there is nothing inconsistent with a state of neutrality, it becomes both its province and its duty to enforce the laws incident to that state of the nation. The executive is charged with the execution of all laws—the laws of nations, as well as the municipal law which recognizes and adopts those laws. It is, consequently, bound, by faithfully executing the laws of neutrality, when that is the state of the nation, to avoid giving a cause of war to foreign powers.”

To do full justice to this masterpiece of logic, the reader must have the patience to follow it step by step.

*If the legislature have a right to make war on the one hand, it is, on the other, the duty of the executive to preserve peace till war is declared.*

It will be observed that here is an explicit and peremptory assertion, that it is the *duty* of the executive to preserve peace till war is declared.

*And in fulfilling that duty, it must necessarily possess a right of judging what is the nature of the obligations which the treaties of the country impose on the government: that is to say, in fulfilling the duty to preserve peace, it must necessarily possess the right to judge whether peace ought to be preserved; in other words, whether its duty should be performed. Can words express a flatter contradiction? It is self-evident that the duty in this case is so far from necessarily implying the right that it necessarily excludes it.*

*And when, in pursuance of this right, it has concluded that there is nothing in them (obligations) inconsistent with a state of neutrality, IT BECOMES both its province and its duty to enforce the laws incident to that state of the nation.*

And what if it should conclude that there is something inconsistent? Is it or is it not the province and duty of the executive to enforce the same laws? Say it is, you destroy the right to judge. Say it is not, you cancel the duty to preserve peace till war is declared.

Take this sentence in connexion with the preceding, and the contradictions are multiplied. Take it by itself, and it makes the right to judge and conclude whether war be obligatory, absolute, and imperative; and the duty to preserve peace, subordinate and conditional.

It will have been remarked by the attentive reader, that the term *peace*, in the first clause, has been silently exchanged in the present one for the term *neutrality*. Nothing, however, is gained by shifting the terms. Neutrality means peace, with an allusion to the circumstance of other nations being at war. The term has no reference to the existence or non-existence of treaties or alliances between the nation at peace and the nations at war. The laws incident to a state of neutrality are the laws

incident to a state of peace, with such circumstantial modifications only as are required by the new relation of the nations at war; until war, therefore, be duly authorised by the United States, they are as *actually* neutral when other nations are at war, as they are at peace (if such a distinction in the terms is to be kept up) when other nations are not at war. The existence of *eventual* engagements, which can only take effect on the declaration of the legislature, cannot, without that declaration, change the *actual* state of the country any more in the eye of the executive than in the eye of the judiciary department. The laws to be the guide of both, remain the same to each, and the same to both.

Nor would more be gained by allowing the writer to define, than to shift the term neutrality. For suppose, if you please, the existence of obligations to join in war to be inconsistent with neutrality, the question returns upon him, what laws are to be enforced by the executive until effect shall be given to those obligations by the declaration of the legislature? Are they to be the laws incident to those obligations; that is, incident to war? However strongly the doctrines or deductions of the writer may tend to this point, it will not be avowed. Are the laws to be enforced by the executive, then, in such a state of things, to be the *same* as if no such obligations existed? Admit this, which you must admit, if you reject the other alternative, and the argument lands precisely where it embarked, in the position that it is the absolute duty of the executive, in *all* cases, to preserve peace till war is declared; not that it is "*to become* the province and duty of the executive," after it has concluded that there is nothing in those obligations inconsistent with a state of peace and neutrality. The right to judge and conclude, therefore, so solemnly maintained in the text, is lost in the comment.

We shall see whether it can be reinstated by what follows:

*The executive is charged with the execution of all laws, the laws of nations as well as the municipal law, which recognizes and adopts those laws. It is, consequently, bound, by faithfully exe*

*cuting the laws of neutrality, when that is the state of the nation, to avoid giving cause of war to foreign powers.*

The first sentence is a truth, but nothing to the point in question. The last is *partly true* in its proper meaning, but *totally untrue* in the meaning of the writer. That the executive is bound faithfully to execute the laws of neutrality, whilst those laws continue unaltered by the competent authority, is true; but not for the reason here given, to wit, to avoid giving cause of war to foreign powers. It is bound to the faithful execution of these as of all other laws, internal and external, by the nature of its trust and the sanction of its oath, even if turbulent citizens should consider its so doing as a cause of war at home, or unfriendly nations should consider its so doing as a cause of war abroad. The duty of the executive to preserve external peace can no more suspend the force of external laws, than its duty to preserve internal peace can suspend the force of municipal laws.

It is certain that a faithful execution of the laws of neutrality may tend as much in some cases to incur war from one quarter, as in others to avoid war from other quarters. The executive must, nevertheless, execute the laws of neutrality whilst in force, and leave it to the legislature to decide whether they ought to be altered or not. The executive has no other discretion than to convene and give information to the legislature on occasions that may demand it; and whilst this discretion is duly exercised, the trust of the executive is satisfied, and that department is not responsible for the consequences. It could not be made responsible for them without vesting it with the legislative as well as with the executive trust.

These remarks are obvious and conclusive, on the supposition that the expression "laws of neutrality" means simply what the words import, and what alone they can mean, to give force or color to the inference of the writer from his own premises. As the inference itself, however, in its proper meaning, does not approach towards his avowed object, which is to work out a prerogative for the executive to judge, in common with the

legislature, whether there be cause of war or not in a public obligation, it is to be presumed that, "in faithfully executing the laws of neutrality," an exercise of that prerogative was meant to be included. On this supposition, the inference, as will have been seen, does not result from his own premises, and has been already so amply discussed, and, it is conceived, so clearly disproved, that not a word more can be necessary on this branch of his argument.

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### NUMBER III.

In order to give color to a right in the executive to exercise the legislative power of judging whether there be a cause of war in a public stipulation, two other arguments are subjoined by the writer to that last examined.

The first is simply this: "It is the right and duty of the executive to judge of and interpret those articles of our treaties which give to France particular privileges, *in order to the enforcement of those privileges*," from which it is stated, as a necessary consequence, that the executive has certain other rights, among which is the right in question.

This argument is answered by a very obvious distinction. The first right is essential to the execution of the treaty, *as a law in operation*, and interferes with no right vested in another department. The second—viz: the right in question—is not essential to the execution of the treaty, or any other law: on the contrary, the article to which the right is applied cannot, as has been shown, from the very nature of it, be *in operation* as a law, without a previous declaration of the legislature; and all the laws to be *enforced* by the executive remain, in the mean time, precisely the same, whatever be the disposition or judgment of the executive. This second right would also interfere with a right acknowledged to be in the legislative department.

If nothing else could suggest this distinction to the writer, he ought to have been reminded of it by his own words, "in order

to the enforcement of those privileges." Was it in order to the *enforcement* of the article of guaranty that the right is ascribed to the executive?

The other of the two arguments reduces itself into the following form: The executive has the right to receive public ministers; this right includes the right of deciding, in the case of a revolution, whether the new government sending the minister ought to be recognised or not; and this, again, the right to give or refuse operation to pre-existing treaties.

The power of the legislature to declare war and judge of the causes for declaring it, is one of the most express and explicit parts of the constitution. To endeavor to abridge or *affect* it by strained inferences and by hypothetical or singular occurrences, naturally warns the reader of some lurking fallacy.

The words of the constitution are: "He (the president) shall receive ambassadors, other public ministers, and consuls." I shall not undertake to examine what would be the precise extent and effect of this function in various cases which fancy may suggest, or which time may produce. It will be more proper to observe, in general, and every candid reader will second the observation, that little, if anything, more was intended by the clause than to provide for a particular mode of communication *almost* grown into a right among modern nations; by pointing out the department of the government most proper for the ceremony of admitting public ministers, of examining their credentials, and of authenticating their title to the privileges annexed to their character by the law of nations. This being the apparent design of the constitution, it would be highly improper to magnify the function into an important prerogative, even where no rights of other departments could be affected by it.

To show that the view here given of the clause is not a new construction, invented or strained for a particular occasion, I will take the liberty of recurring to the cotemporary work already quoted, which contains the obvious and original gloss put on this part of the constitution by its friends and advocates:

"The president is also to be authorized to receive ambassadors and other public ministers. This, though it has been a rich theme of declamation, is more a matter of *dignity* than of *authority*. It is a circumstance that will be *without consequence* in the administration of the government, and it is far more convenient that it should be arranged in this manner, than that there should be a necessity for convening the legislature, or one of its branches, upon every arrival of a foreign minister, though it were merely to take the place of a departed predecessor."—Fed., vol. 2, p. 237.\*

Had it been foretold in the year 1788, when this work was published, that before the end of the year 1793, a writer, assuming the merit of being a friend to the constitution, would appear, and gravely maintain, that this function, which was to be *without consequence* in the administration of the government, might have the consequence of deciding on the validity of revolutions in favor of liberty, "of putting the United States in a condition to become an associate in war," nay, "of laying the legislature under an *obligation of declaring war*," what would have been thought and said of so visionary a prophet?

The moderate opponents of the constitution would probably have disowned his extravagance. By the advocates of the constitution, his prediction must have been treated as "an experiment on public credulity, dictated either by a deliberate intention to deceive, or by the overflowings of a zeal too intemperate to be ingenuous."

But how does it follow from the function to receive ambassadors and other public ministers, that so consequential a prerogative may be exercised by the executive? When a foreign minister presents himself, two questions immediately arise: Are his credentials from the existing and acting government of his country? Are they properly authenticated? These questions belong of necessity to the executive; but they involve no cognizance of the question, whether those exercising the government have the right along with the possession. This belongs

\* No. 69, written by Mr. Hamilton.



to the nation, and to the nation alone, on whom the government operates. The questions before the executive are merely questions of fact; and the executive would have precisely the same right, or rather be under the same necessity of deciding them, if its function was simply to receive *without any discretion to reject* public ministers. It is evident, therefore, that if the executive has a right to reject a public minister, it must be founded on some other consideration than a change in the government, or the newness of the government; and consequently a right to refuse to acknowledge a new government cannot be implied by the right to refuse a public minister.

It is not denied that there may be cases in which a respect to the general principles of liberty, the essential rights of the people, or the overruling sentiments of humanity, might require a government, whether new or old, to be treated as an illegitimate despotism. Such are, in fact, discussed and admitted by the most approved authorities. But they are great and extraordinary cases, by no means submitted to so limited an organ of the national will as the executive of the United States; and certainly not to be brought by any torture of words, within the right to receive ambassadors.

That the authority of the executive does not extend to a question, whether an *existing* government ought to be recognized or not, will still more clearly appear from an examination of the next inference of the writer, to wit: that the executive has a right to give or refuse activity and operation to pre-existing treaties.

If there be a principle that ought not to be questioned within the United States, it is that every nation has a right to abolish an old government and establish a new one. This principle is not only recorded in every public archive, written in every American heart, and sealed with the blood of a host of American martyrs, but is the only lawful tenure by which the United States hold their existence as a nation.

It is a principle incorporated with the above, that governments are established for the national good, and are organs of the national will.

From these two principles results a third, that treaties formed by the government are treaties of the nation, unless otherwise expressed in the treaties.

Another consequence is, that a nation, by exercising the right of changing the organ of its will, can neither disengage itself from the obligations, nor forfeit the benefits of its treaties. This is a truth of vast importance, and happily rests with sufficient firmness on its own authority. To silence or prevent cavil, I insert, however, the following extracts: "Since, then, such a treaty (a treaty not *personal* to the sovereign) directly relates to the body of the State, it subsists though the form of the republic happens to be changed, and though it should be even transformed into a monarchy; for the State and the nation are always the same, whatever changes are made in the form of the government, and the treaty concluded with the nation remains in force as long as the nation exists."—Vattel, B. II, § 85. "It follows that as a treaty, notwithstanding the change of a democratic government into a monarchy, continues in force with the new king, in a like manner if a *monarchy* becomes a *republic*, the treaty made with the king does not expire on that account, unless it was manifestly *personal*."—Burlam., part IV, c. IX, § 16, ¶ 6.

As a change of government, then, makes no change in the obligations or rights of the party to a treaty, it is clear that the executive can have no more right to suspend or prevent the operation of a treaty on account of the change, than to suspend or prevent the operation where no such change has happened. Nor can it have any more right to suspend the operation of a treaty in force as a law, than to suspend the operation of any other law.

The logic employed by the writer on this occasion will be best understood by accommodating to it the language of a proclamation, founded on the prerogative and policy of suspending the treaty with France:

Whereas a treaty was concluded on the — day of — between the United States and the French nation, through the kingly government, which was then the organ of its will; and

whereas the said nation hath since exercised its right (nowise abridged by the said treaty) of changing the organ of its will by abolishing the said kingly government, as inconsistent with the rights and happiness of the people, and establishing a republican in lieu thereof, as most favorable to the public happiness, and best suited to the genius of a people become sensible of their rights and ashamed of their chains; and whereas, by the constitution of the United States, the executive is authorized to receive ambassadors, other public ministers, and consuls; and whereas a public minister, duly appointed and commissioned by the new republic of France, hath arrived and presented himself to the executive, in order to be received in his proper character, now be it known, that by virtue of the said right vested in the executive to receive ambassadors, other public ministers, and consuls, and of the rights included therein, the executive hath refused to receive the said minister from the said republic, and hath thereby caused the activity and operation of all treaties with the French nation, *hitherto in force as supreme laws of the land*, to be suspended until the executive, by taking off the said suspension, shall revive the same; of which all persons concerned are to take notice at their peril.

The writer, as if beginning to feel that he was grasping at more than he can hold, endeavors all of a sudden to squeeze his doctrine into a smaller size, and a less vulnerable shape. The reader shall see the operation in his own words.

“And where a *treaty* antecedently exists between the United States and such nation, [a nation whose government has undergone a revolution,] that right [the right of judging whether the new rulers ought to be recognized or not] involves the power of giving operation or not to *such treaty*. For until the new government is acknowledged, the treaties between the nations, *as far at least as regards public rights*, are, of course, suspended.”

This qualification of the suspending power, though reluctantly and inexplicitly made, was prudent for two reasons: first, because it is pretty evident that *private rights*, whether of judi-

ciary or executive cognizance, may be carried into effect without the agency of the foreign government; and therefore would not be suspended, of course, by a rejection of that agency; secondly, because the judiciary, being an independent department, and acting under an oath to pursue the law of treaties as the supreme law of the land, might not readily follow the executive example; and a *right in one expositor* of treaties to consider them as *not in force*, whilst it would be the *duty of another expositor* to consider them as *in force*, would be a phenomenon not so easy to be explained. Indeed, as the doctrine stands qualified, it leaves the executive the right of suspending the law of treaties in relation to rights of one description, without exempting it from the duty of enforcing it in relation to rights of another description.

But the writer is embarked in so unsound an argument, that he does not save the rest of his inference by this sacrifice of one half of it. It is not true, that *all public rights* are of course suspended by a refusal to acknowledge the government, or even by a suspension of the government. And in the next place, the right in question does not follow from the necessary suspension of public rights, in consequence of a refusal to acknowledge the government.

Public rights are of two sorts: those which require the agency of government; those which may be carried into effect without that agency.

As public rights are the rights of the nation, not of the government, it is clear that wherever they can be made good to the nation, without the office of government, they are not suspended by the want of an acknowledged government, or even by the want of an existing government; and that there are important rights of this description, will be illustrated by the following case:

Suppose, that after the conclusion of the treaty of alliance between the United States and France, a party of the enemy had surprised and put to death every member of Congress; that the occasion had been used by the people of America for changing the old confederacy into such a government as now exists

and that in the progress of this revolution, an interregnum had happened. Suppose further, that during this interval, the States of South Carolina and Georgia, or any other parts of the United States, had been attacked, and been put into evident and imminent danger of being irrecoverably lost, without the interposition of the French arms; is it not manifest, that as the Treaty is the Treaty of the United States, not of their government, the people of the United States, could not forfeit their right to the guaranty of their territory by the accidental suspension of their government; and that any attempt, on the part of France, to evade the obligations of the Treaty, by pleading the suspension of government, or by refusing to acknowledge it; would justly have been received with universal indignation, as an ignominious perfidy?

With respect to public rights that cannot take effect in favour of a nation without the agency of its government, it is admitted that they are suspended of course where there is no government in existence, and also by a refusal to acknowledge an existing government. But no inference in favour of *a right* to suspend the operation of Treaties, can be drawn from either case. Where the existence of the government is suspended, it is a case of necessity; it would be a case happening without the act of the executive, and consequently could prove nothing for or against the right.

In the other case, to wit, of a refusal by the executive to recognise an *existing government*, however certain it may be, that a suspension of some of the public rights might ensue; yet, it is equally certain, that the refusal would be without right or authority; and that no right or authority could be implied or produced by the unauthorised act. If a right to do whatever might bear an analogy to the necessary consequence of what was done without right, could be inferred from the analogy, there would be no other limit to power than the limit to its ingenuity.

It is no answer to say that it may be doubtful whether a government does or does not exist; or doubtful which may be the existing and acting government. The case stated by the writer is, that there are existing rulers; that there is an acting gov-

ernment; but that they are *new* rulers; and that it is a *new* government. The full reply, however, is to repeat what has been already observed; that questions of this sort are mere questions of fact; that as such only, they belong to the executive; that they would equally belong to the executive, if it was tied down to the reception of public ministers, without any discretion to receive or reject them; that where the fact appears to be, that no government exists, the consequential suspension is independent of the executive; that where the fact appears to be, that the government does exist, the executive must be governed by the fact, and can have no right or discretion, on account of the date or form of the government, to refuse to acknowledge it, either by rejecting its public minister, or by any other step taken on that account. If it does refuse on that account, the refusal is a wrongful act, and can neither prove nor illustrate a rightful power.

I have spent more time on this part of the discussion than may appear to some, to have been requisite. But it was considered as a proper opportunity for presenting some important ideas, connected with the general subject, and it may be of use in shewing how very superficially, as well as erroneously, the writer has treated it.

In other respects so particular an investigation was less necessary. For allowing it to be, as contended, that a suspension of treaties might happen from a *consequential* operation of a right to receive public ministers, which is an *express right* vested by the constitution; it could be no proof, that the same or a *similar* effect could be produced by the *direct* operation of a *constructive power*.

Hence the embarrassments and gross contradictions of the writer in defining, and applying his ultimate inference from the operation of the executive power with regard to public ministers.

At first it exhibits an "important instance of the right of the executive to decide the obligation of the nation with regard to foreign nations."

Rising from that, it confers on the executive, a right "to

put the United States in a condition to become an associate in war."

And, at its full height, it authorizes the executive "to lay the legislature under an *obligation* of declaring war."

From this towering prerogative, it suddenly brings down the executive to the right of "*consequently affecting* the proper or improper exercise of the power of the legislature to declare war."

And then, by a caprice as unexpected as it is sudden, it espouses the cause of the legislature; rescues it from the executive right "to lay it under an *obligation* of declaring war;" and asserts it to be "free to perform its *own* duties, according to its *own* sense of them," without any other controul than what it is liable to, in every other legislative act.

The point at which it finally seems to rest, is, that "the executive in the exercise of its *constitutional powers*, may establish an antecedent state of things, which ought to *weigh* in the *legislative decisions*;" a prerogative which will import a great deal, or nothing, according to the handle by which you take it; and which, at the same time, you can take by no handle that does not clash with some inference preceding.

If "by weighing in the legislative decisions" be meant having an *influence* on the *expediency* of this or that decision in the *opinion* of the legislature; this is no more than what every antecedent state of things ought to have, from whatever cause proceeding; whether from the use or abuse of constitutional powers, or from the exercise of constitutional or assumed powers. In this sense the power to establish an antecedent state of things is not contested. But then it is of no use to the writer, and is also in direct contradiction to the inference, that the executive may "lay the *legislature* under an *obligation* to decide in favour of war."

If the meaning be as is implied by the force of the terms "constitutional powers," that the antecedent state of things produced by the executive, ought to have a *constitutional weight* with the legislative: or, in plainer words, imposes a *constitutional obligation* on the *legislative decisions*, the writer will not only have

to combat the arguments by which such a prerogative has been disproved; but to reconcile it with his last concession, that "the legislature is *free* to perform its duties according to its *own* sense of them." He must shew that the legislature is, at the same time, *constitutionally free* to pursue its *own judgment* and *constitutionally bound* by the *judgment of the executive*.

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#### NUMBER IV.

The last papers completed the view proposed to be taken of the arguments in support of the new and aspiring doctrine, which ascribes to the executive the prerogative of judging and deciding whether there be causes of war or not, in the obligations of treaties; notwithstanding the express provision in the constitution, by which the legislature is made the organ of the national will, on questions whether there be or be not a cause for declaring war. If the answer to these arguments has imparted the conviction which dictated it, the reader will have pronounced that they are generally superficial, abounding in contradictions, never in the least degree conclusive to the main point, and not unfrequently conclusive against the writer himself; whilst the doctrine, that the powers of treaty and war are in their nature executive powers, which forms the basis of those arguments, is as indefensible and as dangerous as the particular doctrine to which they are applied.

But it is not to be forgotten that these doctrines, though ever so clearly disproved, or ever so weakly defended, remain before the public a striking monument of the principles and views which are entertained and propagated in the community.

It is also to be remembered, that however the consequences flowing from such premises may be disavowed at this time, or by this individual, we are to regard it as morally certain, that in proportion as the doctrines make their way into the creed of the government and the acquiescence of the public, every



power that can be deduced from them, will be deduced and exercised sooner or later by those who may have an interest in so doing. The character of human nature gives this salutary warning to every sober and reflecting mind. And the history of government in all its forms, and in every period of time, ratifies the danger. A people, therefore, who are so happy as to possess the inestimable blessing of a free and defined constitution, cannot be too watchful against the introduction, nor too critical in tracing the consequences, of new principles and new constructions, that may remove the landmarks of power.

Should the prerogative which has been examined be allowed, in its most limited sense, to usurp the public countenance, the interval would probably be very short before it would be heard from some quarter or other, that the prerogative either amounts to nothing, or means a right to judge and conclude that the obligations of treaty impose war as well as that they permit peace; that it is fair reasoning to say, that if the prerogative exists at all, an operative rather than an *inert* character ought to be given to it.

In support of this conclusion there would be enough to echo, "that the prerogative in this active sense is connected with the executive in various capacities, as the organ of intercourse between the nation and foreign nations, as the interpreter of national treaties," (a violation of which may be a cause of war,) "as that power which is charged with the execution of the laws, of which treaties make a part, as that power which is charged with *the command and application of the public force.*"

With additional force, it might be said that the executive is as much the *executor* as the *interpreter* of treaties; that if by virtue of the *first* character, it is to judge of the *obligations* of treaties, it is, by virtue of the *second*, equally authorized to carry those obligations into *effect*. Should there occur, for example, a *casus fœderis*, claiming a military co-operation of the United States, and a military force should happen to be under the command of the executive, it must have the same right, as *executor of public treaties*, to *employ* the public force, as it has

in quality of *interpreter of public treaties* to decide whether it ought to be *employed*.

The case of a treaty of peace would be an auxiliary to comments of this sort: it is a condition, annexed to every treaty, that an infraction even of an important article, on one side, extinguishes the obligations on the other; and the immediate consequence of a dissolution of a treaty of peace is a restoration of a state of war. If the executive is "to decide on the obligation of the nation with regard to foreign nations;" "to pronounce the *existing condition* [in the sense annexed by the writer] of the nation with regard to them; and to admonish the citizens of their obligations and duties, as founded upon *that condition* of things;" "to judge what are the *reciprocal rights* and obligations of the United States, and of all and each of the powers at war;" add that if the executive, moreover, possesses all powers relating to war, *not strictly* within the power to *declare war*, which any pupil of political casuistry could distinguish from a mere relapse into a war that *had been declared*: with this store of materials, and the example given of the use to be made of them, would it be difficult to fabricate a power in the executive to plunge the nation into war, whenever a treaty of peace might happen to be infringed?

But if any difficulty should arise, there is another mode chalked out, by which the end might clearly be brought about, even without the violation of the treaty of peace; especially if the other party should happen to change its government at the crisis. The executive could *suspend* the treaty of peace *by refusing to receive an ambassador* from the *new government*; and the state of war *emerges of course*.

This is a sample of the use to which the extraordinary publication we are reviewing might be turned. Some of the inferences could not be repelled at all. And the least regular of them must go smoothly down with those who had swallowed the gross sophistry which wrapped up the original dose.

Every just view that can be taken of this subject admonishes the public of the necessity of a rigid adherence to the simple, the received, and the fundamental doctrine of the constitution,

that the power to declare war, including the power of judging of the causes of war, is *fully* and *exclusively* vested in the legislature; that the executive has no right, in any case, to decide the question, whether there is or is not cause for declaring war; that the right of convening and informing Congress, whenever such a question seems to call for a decision, is all the right which the constitution has deemed requisite or proper; and that for such, more than for any other contingency, this right was specially given to the executive.

In no part of the constitution is more wisdom to be found, than in the clause which confides the question of war or peace to the legislature, and not to the executive department. Beside the objection to such a mixture of heterogeneous powers, the trust and the temptation would be too great for any one man; not such as nature may offer as the prodigy of many centuries, but such as may be expected in the ordinary successions of magistracy. War is, in fact, the true nurse of executive aggrandizement. In war, a physical force is to be created, and it is the executive will which is to direct it. In war, the public treasures are to be unlocked, and it is the executive hand which is to dispense them. In war, the honors and emoluments of office are to be multiplied; and it is the executive patronage under which they are to be enjoyed. It is in war, finally, that laurels are to be gathered; and it is the executive brow they are to encircle. The strongest passions and most dangerous weaknesses of the human breast, ambition, avarice, vanity, the honorable or venial love of fame, are all in conspiracy against the desire and duty of peace.

Hence it has grown into an axiom that the executive is the department of power most distinguished by its propensity to war; hence it is the practice of all States, in proportion as they are free, to disarm this propensity of its influence.

As the best praise, then, that can be pronounced on an executive magistrate, is that he is the friend of peace—a praise that rises in its value as there may be a known capacity to shine in war—so it must be one of the most sacred duties of a free people to mark the first omen in the society, of principles that

may stimulate the hopes of other magistrates of another propensity, to intrude into questions on which its gratification depends. If a free people be a wise people also, they will not forget that the danger of surprise can never be so great as when the advocates for the prerogative of war can sheathe it in a symbol of peace.

The constitution has manifested a similar prudence in refusing to the executive the *sole* power of making peace. The trust in this instance, also, would be too great for the wisdom, and the temptations too strong for the virtue, of a single citizen. The principal reasons on which the constitution proceeded in its regulation of the power of treaties, including treaties of peace, are so aptly furnished by the work already quoted more than once, that I shall borrow another comment from that source.

“ However proper or safe it may be in a government where  
“ the executive magistrate is an hereditary monarch, to commit  
“ to him the entire power of making treaties, it would be  
“ utterly unsafe and improper to entrust that power to an  
“ elective magistrate of four years’ duration. It has been  
“ remarked upon another occasion, and the remark is unquestionably just, that an hereditary monarch, though often the  
“ oppressor of his people, has personally too much at stake in  
“ the government to be in any material danger of being corrupted by foreign powers; but that a man raised from the  
“ station of a private citizen to the rank of chief magistrate, possessed of but a moderate or slender fortune, and looking  
“ forward to a period not very remote when he may probably  
“ be obliged to return to the station from which he was taken, might sometimes be under temptations to sacrifice his duty to  
“ his interest, which it would require superlative virtue to withstand. An avaricious man might be tempted to betray the  
“ interests of the State to the acquisition of wealth. An ambitious man might make his own aggrandizement, by the aid  
“ of a foreign power, the price of his treachery to his constituents. The history of human conduct does not warrant that  
“ exalted opinion of human virtue which would make it wise in

" a nation to commit interests of so delicate and momentous a kind as those which concern its intercourse with the rest of the world to the sole disposal of a magistrate created and circumstanced as would be a president of the United States."—Federalist, vol. 2, p. 344.\*

I shall conclude this paper and this branch of the subject with two reflections, which naturally arise from this view of the constitution.

The first is, that as the personal interest of an hereditary monarch in the government is the *only* security against the temptation incident to the commitment of the delicate and momentous interests of the nation, which concerns its intercourse with the rest of the world to the disposal of a single magistrate, it is a plain consequence, that every addition that may be made to the *sole* agency and influence of the executive, in the intercourse of the nation with foreign nations, is an increase of the dangerous temptation to which an *elective and temporary* magistrate is exposed; and an *argument and advance* towards the security afforded by the personal interests of an *hereditary* magistrate.

Secondly, as the constitution has not permitted the executive *singly* to conclude or judge that peace ought to be made, it might be inferred from that circumstance alone that it never meant to give it authority, *singly*, to judge and conclude that war ought not to be made. The trust would be precisely similar and equivalent in the two cases. The right to say that war ought not to go on, would be no greater than the right to say that war ought not to begin. Every danger of error or corruption incident to such a prerogative in one case is incident to it in the other. If the constitution, therefore, has deemed it unsafe or improper in the one case, it must be deemed equally so in the other case.

## NUMBER V.

Having seen that the executive has no constitutional right to interfere in any question, whether there be or be not a cause of war, and the extensive consequences flowing from the doctrines on which such a claim has been asserted, it remains to be inquired, whether the writer is better warranted in the fact which he assumes, namely, that the proclamation of the executive has undertaken to decide the question whether there be a cause of war or not, in the article of guaranty between the United States and France, and in so doing has exercised the right which is claimed for that department.

Before I proceed to the examination of this point, it may not be amiss to advert to the novelty of the phraseology, as well as of the doctrines espoused by this writer. The source from which the former is evidently borrowed may enlighten our conjectures with regard to the source of the latter. It is a just observation, also, that words have often a gradual influence on ideas, and when used in an improper sense may cover fallacies which would not otherwise escape detection.

I allude particularly to his application of the term *government* to the *executive authority alone*. The proclamation is a "manifestation of the sense of the *government*." "Why did not the *government* wait," &c. "The policy on the part of the *government* of removing all doubt as to *its own disposition*."\* "It was of great importance that our citizens should understand as early as possible the opinion entertained by the *government*," &c. "If, in addition to the rest, the early manifestation of the *views* of the *government* had any effect in *fixing the public opinion*," &c. The reader will probably be struck with the reflection, that if the proclamation really possessed the character, and was to have the effects, here ascribed to it, something more than the authority of *the government*, in

\* The writer ought not in the same paper, No. VII, to have said, "Had the president announced his own *disposition*, he would have been chargeable with egotism, if not *presumption*."

the writer's sense of government, would have been a necessary sanction to the act; and if the term "government" be removed, and that of "president" substituted, in the sentences quoted, the justice of the reflection will be felt with peculiar force. But I remark only on the singularity of the style adopted by the writer, as showing either that the phraseology of a foreign government is more familiar to him than the phraseology proper to our own, or that he wishes to propagate a familiarity of the former in preference to the latter. I do not know what degree of disapprobation others may think due to this innovation of language; but I consider it as far above a trivial criticism to observe, that it is by no means unworthy of attention, whether viewed with an eye to its probable cause or its apparent tendency. "The government" unquestionably means, in the United States, the whole government, not the executive part, either exclusively or *pre-eminently*; as it may do in a monarchy, where the splendor of prerogative eclipses, and the machinery of influence directs, every other part of the government. In the former and proper sense, the term has hitherto been used in official proceedings, in public discussions, and in private discourse. It is as short and as easy, and less liable to misapprehension, to say the executive or the president, as to say the government. In a word, the new dialect could not proceed either from necessity, convenience, propriety, or perspicuity; and being in opposition to common usage, so marked a fondness for it justifies the notice here taken of it. It shall no longer detain me, however, from the more important subject of the present paper.

I proceed, therefore, to observe, that as a "proclamation," in its *ordinary* use, is an address to citizens or subjects only; as it is always understood to relate to the law *actually in operation*, and to be an act *purely* and *exclusively* executive, there can be no implication in the *name* or the *form* of such an instrument, that it was meant principally for the information of foreign nations; far less that it related to an *eventual stipulation* on the subject *acknowledged* to be within the *legislative province*.

When the writer, therefore, undertook to engraft his new

prerogative on the proclamation by ascribing to it so unusual and unimplied a meaning, it was evidently incumbent on him to show that the *text* of the instrument could not be satisfied by any other construction than his own. Has he done this? No. What has he done? He has called the proclamation a proclamation of neutrality; he has put his own arbitrary meaning on that phrase, and has then proceeded in his arguments and his inferences with as much confidence as if no question was ever to be asked, whether the term "neutrality" be in the proclamation, or whether, if there, it could justify the use he makes of it.

It has appeared from observations already made, that if the term "neutrality" was in the proclamation, it could not avail the writer in the present discussion; but the fact is, no such term is to be found in it, nor any other term of a meaning equivalent to that, in which the term neutrality is used by him.

There is the less pretext in the present case for hunting after any latent or extraordinary object, because an obvious and legal one is at hand to satisfy the occasion on which the proclamation issued. The existence of war among several nations with which the United States have an extensive intercourse; the duty of the executive to preserve peace by enforcing its laws whilst those laws continued in force; the danger that indiscreet citizens might be tempted or surprised by the crisis into unlawful proceedings, tending to involve the United States in a war which the competent authority might decide them to be at liberty to avoid, and which, if they should be judged not at liberty to avoid, the other party to the *eventual contract* might be willing not to impose on them; these surely might have been sufficient grounds for the measure pursued by the executive; and being legal and rational grounds, it would be wrong, if there be no necessity to look beyond them.

If there be anything in the proclamation of which the writer could have made a handle, it is the part which declares the *disposition*, the *duty*, and the *interest* of the United States, in relation to the war existing in Europe. As the legislature is the



only competent and constitutional organ of the will of the nation, that is, of its disposition, its duty, and its interest, in relation to a commencement of war, in like manner as the president and senate *jointly*, not the president *alone*, are in relation to peace, after war has been commenced, I will not dissemble my wish that a language less exposed to criticism had been preferred; but taking the expressions, in the sense of the writer himself, as analogous to the language which might be proper on the reception of a public minister or any similar occasion, it is evident that his construction can derive no succour even from this source.

If the proclamation, then, does not *require* the construction which this writer has taken the liberty of putting on it, I leave it to be decided whether the following considerations do not forbid us to suppose that the president could have intended, by that act, to embrace and prejudge the legislative question, whether there was, or was not, under the circumstances of the case, a cause of war in the article of guaranty.

It has been shown that such an intention would have usurped a prerogative not vested in the executive, and even *confessedly* vested in another department.

In exercising the constitutional power of deciding a question of war, the legislature ought to be as free to decide, according to its own sense of the public good, on one side as on the other side. Had the proclamation prejudged the question on either side and *proclaimed its decision to the world*, the legislature, instead of being as free as it ought, might be thrown under the dilemma of either sacrificing its judgment to that of the executive, or, by opposing the executive judgment, of producing a relation between the two departments extremely delicate among ourselves, and of the worst influence on the national character and interests abroad. A variance of this nature, it will readily be perceived, would be very different from a want of conformity to the *mere recommendations* of the executive in the measures adopted by the legislature.

It does not appear that such a proclamation could have even pleaded any call, from either of the parties at war with France,

for an explanation of the light in which the guaranty was viewed. Whilst, indeed, no positive indication whatever was given of hostile purposes, it is not conceived that any power could have decently made such an application, or if it had, that a proclamation would have been either a satisfactory or an honorable answer. It could not have been satisfactory, if serious apprehensions were entertained, because it would not have proceeded from that authority which alone could definitively pronounce the will of the United States on the subject. It would not have been honorable, because a private diplomatic answer only is due to a private diplomatic application; and to have done so much more would have marked a pusillanimity and want of dignity in the executive magistrate.

But whether the executive was or was not applied to, or whatever weight be allowed to that circumstance, it ought never to be presumed, that the executive would so abruptly, so publicly, and so solemnly, proceed to disclaim a sense of the contract, which the other party might consider and wish to support by discussion, as its true and reasonable import. It is asked, indeed, in a tone that sufficiently displays the spirit in which the writer construes both the Proclamation and the treaty, "Did the executive stand in need of the logic of a foreign agent to enlighten it as to the duties or the interests of the nation: or was it bound to ask his consent to a step which appeared to itself consistent with the former, and conducive to the latter? The sense of treaties was to be learnt from the treaties themselves." Had he consulted his Vattel, instead of his animosity to France, he would have discovered that however humiliating it might be to wait for a foreign logic, to assist the interpretation of an act depending on the national authority alone, yet in the case of a treaty, which is as much the treaty of a foreign nation, as it is ours; and in which foreign duties and rights are as much involved as ours, the sense of the treaty, though to be learnt from the treaty itself, is to be equally learned by both parties to it. Neither of them can have a right more than the other, to say what a particular article means; and where there is equality without a judge, consultation is as

consistent with dignity as it is conducive to harmony and friendship; let Vattel, however, be heard on the subject.

"The third general maxim, or principle, on the subject of interpretation [of Treaties] is: *that neither the one nor the other of the interested or contracting powers has a right to interpret the act or treaty at its pleasure.* For if you are at liberty to give my promise what sense you please, you will have the power of obliging me to do whatever you have a mind, contrary to my intention, and beyond my real engagement: and reciprocally, *If I am allowed to explain my promises as I please, I may render them vain and illusive, by giving them a sense quite different from that in which they were presented to you, and in which you must have taken them in accepting them.*" Vat., B. II, c. vii, § 265.

The writer ought to have been particularly sensible of the improbability that a precipitate and *ex parte* decision of the question arising under the guaranty, could have been intended by the proclamation. He had but just gone through his undertaking, to prove that the article of guaranty like the rest of the treaty is defensive, not offensive. He had examined his books and retailed his quotations, to shew that the criterion between the two kinds of war is the circumstance of priority in the attack. He could not therefore but know, that according to his own principles, the question whether the United States were under an obligation or not to take part in the war, was a *question of fact* whether the first attack was made by France or her enemies. And to decide a question of fact, as well as of principle, without waiting for such representations and proofs, as the absent and interested party might have to produce, would have been a proceeding contrary to the ordinary maxims of justice, and requiring circumstances of a very peculiar nature, to warrant it towards any nation. Towards a nation which could verify her claim to more than bare justice by our own reiterated and formal acknowledgments, and which must in her present singular and interesting situation have a peculiar sensibility to marks of our friendship or alienation, the impropriety of such a pro-

ceeding would be infinitely increased, and in the same proportion the improbability of its having taken place.

There are reasons of another sort which would have been a bar to such a proceeding. It would have been as impolitic as it would have been unfair and unkind.

If France meant not to insist on the guaranty, the measure, without giving any present advantage, would have deprived the United States of a future claim which may be of importance to their safety. It would have inspired France with jealousies of a secret bias in this country toward some of her enemies, which might have left in her breast a spirit of contempt and revenge of which the effects might be felt in various ways. It must in particular have tended to inspire her with a disinclination to feed our commerce with those important advantages which it already enjoys, and those more important ones, which it anxiously contemplates. The nation that consumes more of the fruits of our soil than any other nation in the world, and supplies the only foreign raw material of extensive use in the United States, would not be unnecessarily provoked by those who understand the public interest, and make it their study, as it is their interest to advance it.

I am aware that the commonplace remark will be interposed, that, "commercial privileges are not worth having, when not secured by mutual interest; and never worth purchasing because they will grow of themselves out of a mutual interest." Prudent men, who do not suffer their reason to be misled by their prejudices, will view the subject in a juster light. They will reflect, that if commercial privileges are not worth purchasing, they are worth having without purchase; that in the commerce of a great nation, there are valuable privileges which may be granted or not granted, or granted either to this or that country, without any sensible influence on the interest of the nation itself; that the friendly or unfriendly disposition of a country, is always an article of moment in the calculations of a comprehensive interest; that some sacrifices of interest will be made to other motives, by nations as well as by individuals,

though not with the same frequency, or in the same proportions; that more of a disinterested conduct or of a conduct founded on liberal views of interest, prevails in some nations than in others; that as far as can be seen of the influence of the revolution on the genius and the policy of France, particularly with regard to the United States, everything is to be hoped by the latter on this subject, which one country can reasonably hope from another. In this point of view a greater error could not have been committed than in a step, that might have turned the present disposition of France to open her commerce to us as far as a liberal calculation of her interest would permit, and her friendship towards us, and confidence in our friendship towards her, could prompt, into a disposition to shut it as closely against us as the united motives of interest, of distrust, and of ill-will, could urge her.

On the supposition that France might intend to claim the guaranty, a hasty and harsh refusal before we were asked, on a ground that accused her of being the aggressor in the war against every power in the catalogue of her enemies, and in a crisis when all her sensibility must be alive towards the United States, would have given every possible irritation to a disappointment which every motive that one nation could feel towards another and towards itself, required to be alleviated by all the circumspection and delicacy that could be applied to the occasion.

The silence of the Executive since the accession of Spain and Portugal to the war against France throws great light on the present discussion. Had the proclamation been issued in the sense, and for the purposes ascribed to it, that is to say, as a declaration of neutrality, another would have followed, on that event. If it was the right and duty of the *Government*, that is, the *President*, to manifest to Great Britain and Holland, and to the American merchants and citizens, his *sense*, his *disposition*, and his *views* on the question, whether *the United States were under the circumstances of the case, bound or not, to execute the clause of guaranty, and not to leave it uncertain whether the Executive did or did not believe a state of neutrality, to be consist-*

ent with our treaties, the *duty* as well as the right prescribed a similar manifestation to all the parties concerned after\* Spain and Portugal had joined the other maritime enemies of France. The opinion of the Executive with respect to a consistency or inconsistency of neutrality with treaties in the *latter case*, could not be *inferred* from the proclamation in the former, because the *circumstances might be different*. Taking the proclamation in its proper sense, as reminding all concerned, that as the United States were at peace, (that state not being affected by foreign wars, and only to be changed by the legislative authority of the country,) the laws of peace were still obligatory and would be enforced, and the inference is so obvious and so applicable to all other cases *whatever circumstances* may distinguish them, that another proclamation would be unnecessary. Here is a new aspect of the whole subject, admonishing us in the most striking manner at once of the danger of the prerogative contended for, and the absurdity of the distinctions and arguments employed in its favour. It would be as impossible in practice, as it is in theory, to separate the power of judging and concluding that the obligations of a treaty do not impose war from that of judging and concluding that the obligations *do impose war*. In certain cases, silence would proclaim the latter conclusion, as intelligibly as words could do the former. The writer indeed has himself abandoned the distinction in his VIIth paper, by declaring expressly that the object of the proclamation would have been defeated “by leaving it uncertain whether “ the Executive did or *did not* believe a state of neutrality to “ be consistent with our treaties.”

HELVIDIUS.

\* The writer is betrayed into an acknowledgment of this in his 7th No., where he applies his reasoning to Spain as well as to Great Britain and Holland. He had forgotten that Spain was not included in the proclamation.

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